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IN THE

Supreme Court of the United States

TAMMY MARIE WILLIAMS, JAMES TILLMAN, JAMERSON DEVOIR TILLMAN,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari To The United States Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the inclusion in a search warrant affidavit of technically true but misleading statements described as "clever" by the district court qualifies as a deliberate or reckless falsehood under *Franks v. Delaware*, 438 U.S. 154 (1978).

2. Whether the probable cause standard is met where an unproven informant with insufficient basis for his allegations is corroborated by innocuous facts.

LIST OF PARTIES

The caption of this case contains the names of all the parties to the proceedings in the courts below. Petitioners Jamerson D. Tillman, James Tillman, and Tammy Marie Williams were the defendants in the district court and the appellants in the court of appeals. Respondent United States of America was the plaintiff in the district court and the appellee in the court of appeals.

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2 Wayne R. LaFave, *Search & Seizure* §§ 3.3(a), 3.4(a) (3d ed. 1996) 3, 5, 8

Petitioners respectfully petition for a writ of *certiorari* to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals is unreported and is reproduced at App. 141a-145a, *infra*. The order of the court of appeals denying rehearing and denying rehearing *en banc* is unreported and is reproduced at App. 146a-147a. The transcript of the district court's hearing denying the parties' pre-trial motions is unreported and is reproduced at App. 1a-56a.

JURISDICTION

The court of appeals entered its judgment on July 22, 2002, and entered its order denying rehearing and denying rehearing *en banc* on August 26, 2002. This Court has jurisdiction pursuant to 28 U.S.C. § 1254.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to the Constitution provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV.

STATEMENT

Petitioners challenge the district court's decision to deny their request for a hearing under *Franks v. Delaware*, 438 U.S. 154 (1978), which was upheld on appeal by the United States Court of Appeals for the Fourth Circuit. Petitioners requested a *Franks* hearing on the grounds, first, that statements made in the search warrant affidavits, though literally true, were misleading, and, second, that after the misleading statements were corrected, the affidavits did not support probable cause because they were based on statements from an unreliable informant that were corroborated only by innocuous facts.

A. Factual Background

The search warrants that led to petitioners' arrests were issued on March 10, 2000, by a judge in Prince George's County, Maryland and were based on an affidavit[1] executed by Detective Black of the Prince George's County Police Department. App. 153a-162a. After the denial of their pre-trial motions, including their motion for a *Franks* hearing, the petitioners pled guilty to various drug and money-laundering charges. App. 110a-140a.

In his search warrant affidavit, Detective Black stated that he had been contacted in January, 2000, by a "concerned citizen" with information about criminal activity. App. 154a. Detective Black supported the veracity and reliability of his informant by adding, "The concerned citizen has not given your affiant any information regarding criminal activity proven to be false." *Id.* The "concerned citizen" then described various activities involving the sale and

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[1] Although separate search warrants were issued for both the Tillmans' residences, the affidavits supporting the warrants were identical except for information relating specifically to the individual premises to be searched, and are hereinafter referred to collectively as the "affidavit."

distribution of cocaine, with which Detective Black stated that the "concerned citizen" was familiar because the "concerned citizen" had been "at one time a distributor of controlled dangerous substances, especially cocaine." App. 155a.

The statements quoted above, however, appear designed to mislead the magistrate judge considering whether the requested search warrants should issue. At the very least, they were made with reckless disregard for the truth. Rather than accurately reflecting the situation, Detective Black's statements in his search warrant affidavit were false and misleading in the following ways:

- The term "concerned citizen" normally refers to a citizen-informer "more deserving of a presumption of reliability than the informant from the criminal milieu." 2 Wayne R. LaFave, *Search & Seizure* §§ 3.3(a), 3.4(a) (3d ed. 1996). Far from being a "concerned citizen," the informant, whose identity is under seal, had been arrested with nine ounces of cocaine the week before he provided information to the police by an undercover police officer posing as a prostitute. App. 66a. In fact, at the time of the motions hearing, attorneys for the government admitted that the "concerned citizen" was "a person who had been charged, who had provided information," and who "[l]ater on... [had] a plea agreement and a deal." App. 26a-27a. Not surprisingly, the district court stated that Detective Black had been "clever" in using the term "concerned citizen." App. 38a. The use of this term to describe a person seeking favorable treatment after a narcotics arrest, App. 66a, is misleading because it invests such an informant with an aura of greater reliability than he would otherwise have.

- Detective Black's statement, "The concerned citizen has not given your affiant any information regarding criminal activity proven to be false," was misleading, because there is no evidence that the informant had supplied the police with information on any previous occasion.

- The affidavit states that "[d]uring the month of January, 2000, your affiant... [was] contacted by a concerned citizen," App. 154a, despite the fact that the contact had occurred in February rather than January, App. 67a. This misstatement creates the impression that the informant was a disinterested third party who approached the police voluntarily and that the informant's relationship with the police was of longer duration than it actually was.

- In addition, the statement in the affidavit that the informant had dealt in drugs "at one time" is misleading because the phrase "at one time" implies, to any reasonable person, that a significant amount of time had elapsed since the informant trafficked in drugs. In fact, the informant had been arrested just weeks before providing the tip to the police, and charges were still pending against him. App. 26a-27a.

- Detective Black also stated that he had seen the Tillmans, whom the informant had identified only as "Tim and his brother," discussing a drug deal with an unidentified third party in a bowling alley on February 17, 2000. App. 155a. At the motions hearing, the Tillmans were prepared to offer testimony denying that this alleged conversation ever took place, but the district court did not hear their testimony. App. 74a.

The statements that the informant made to Detective Black were largely uncorroborated. Following his conversation with the informant, Detective Black stated in his affidavit that he observed the Tillmans meet a third man and exchange packages with him. App. 157a. The third man then drove to another location and fled on foot when the police approached him. *Id.* While the police were pursuing the third man, they recovered cocaine "from the scene." *Id.* The affidavit did not indicate, however, that the Tillmans retrieved a package from Jamerson Tillman's home prior to meeting with the third man, that the exchanged packages contained cocaine, that the Tillmans were ever near the place where the cocaine was discovered, or even that the cocaine found at the scene had been in the possession of the third man or had been contained in one of the exchanged packages.

B. The District Court's Decision

On June 11, 2001, at the conclusion of a motion hearing, the district court denied defendants' motion for a *Franks* hearing based on its finding that the search warrant affidavit did not include any intentional falsehoods. App. 39a-41a. The court did not directly address the second *Franks* prong, which examines whether the misleading statements were necessary to a finding of probable cause.

In making its decision to deny the defendants' request for a *Franks* hearing, the court found two inaccuracies in the affidavit. One was the label of "concerned citizen," and the other was the statement that the informant contacted the police in January, 2000. The court explicitly said that the informant in this case was not a "concerned citizen." App. 38a. The district court also made an inquiry that revealed the informant did not contact the police; rather, he was arrested and then decided to provide them with information. App. 26a-27a.

In addition to the above inaccuracies, the court also took note of two technically true but misleading statements. Although the court ultimately decided that these two literally true statements did not qualify for closer inspection under *Franks*, closer inspection indicates that they show a reckless disregard for the truth.

First, the court noted that the affidavit's assertion that the informant "was at one time" a drug dealer was "clever," but not a misrepresentation. App. 38a. The court found it was not a misrepresentation despite the fact that the only evidence on the point indicated the informant had been in possession of drugs when he was arrested, just weeks before the affidavit was drafted. App. 66a, 16a. Notwithstanding the lack of evidence that the informant had ceased dealing drugs, the court found that the assertion was not false.

Second, with regard to the statement that the informant "ha[d] not given [the] affiant any information regarding criminal activity proven to be false," App. 154a, the court's own confusion speaks to its false nature. Near the end of the motions hearing, the district court mistakenly concluded that the affidavit had provided an adequate basis for the Prince George's County judge's understanding that the informant had worked with police before.[2] App. 40a. The court's belief, however, was wrong; the informant had not worked with the police before. App. 19a. The court made this statement because it was confused by the affidavit's misleading characterization of the informant as someone who had never given false information before. The court was confused despite the fact that defense counsel had explained earlier in the hearing that its assumption that the

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[2] During the motion hearing where the district court denied a *Franks* hearing, the court stated: "As I said, in conclusion here, when you look at the affidavit, Judge Dawson [the Prince George's County judge] was given information that this person [the informant] was a drug dealer, this person had worked with law enforcement before..." App. 40a.

informant had worked with police in the past was incorrect. App. 19a. Not only did the misleading statement succeed in confusing the district court below, but it may have misled the issuing judge in his probable cause determination. The district court's erroneous observation that the informant had never provided false information to the police confirms the misleading assertion's power to deceive.

C. The Court of Appeals' Decision

On appeal, defendants argued that the district court erred in denying a *Franks* hearing. Specifically, the defendants argued that the district court erred by not finding that the affidavit's multiple misrepresentations, for example the character of the informant, were intentional falsehoods or at least showed a reckless disregard for the truth. In addition, the defendants argued that they had made a substantial showing that the alleged bowling alley conversation of February 17, 2000 did not occur, therefore satisfying the first prerequisite to obtaining a *Franks* hearing.

As to the second prong of *Franks*, the defendants argued that it was satisfied because after removing the misrepresentations, the remaining facts did not amount to probable cause. The defendants noted that the government did not assert that the informant's information alone was adequate to support probable cause. Thus, some corroboration was necessary. In addressing the issue of corroboration, the defendants further argued that the unreliable informant's information could not be made into probable cause based upon police observation of vague and innocuous activities.

In response to defendants' arguments, the government argued that the district court did not err and that the defendants did not meet their burden of showing that the misrepresentations were deliberately false or made with reckless disregard for the truth. The government further

argued that the second *Franks* prong was not met because the misrepresentations were not necessary to find probable cause. Specifically, the government argued that the fact that the informant was recently arrested added credibility to his allegations. The government also argued that the informant should be considered more reliable because he may have been a co-conspirator in the defendants' crime an allegation unsupported by the facts.

The Fourth Circuit affirmed the district court's decision to deny a *Franks* hearing. The court saw no clear error in the district court's finding that the affidavit did not contain any intentional misrepresentations. App. 142a-143a. The Fourth Circuit also stated that none of the alleged misrepresentations were necessary to find probable cause; thus addressing the second prong of *Franks*, which the district court below had not reached. *Id.* at 143a.

REASONS FOR GRANTING THE WRIT

This case squarely presents two important and recurring questions in Fourth Amendment jurisprudence. The first question has to do with whether technically true but misleading statements in search warrant affidavits merit consideration as "deliberate falsehood" or "reckless disregard for the truth" under *Franks*. The second question considers whether probable cause can be found when innocuous facts corroborate an unproven confidential informant's weakly-based allegations. The Fourth Circuit's decision weakens the protections of the Warrant Clause, which this Court has recognized is "[t]he bulwark of Fourth Amendment protection," *Franks*, 438 U.S. at 164. If allowed to stand, the decision below will throw Fourth Amendment law into a state of confusion, and will encourage those seeking search warrants to include, in the words of the district court, "clever" statements that mislead issuing judges, combined with scantily corroborated evidence in search warrant affidavits.

I. THE DECISION BELOW CREATES A SPLIT AMONG THE CIRCUIT COURTS OF APPEALS

A. The Circuit Courts of Appeals Are Now Split Over the Question Whether Technically True But Misleading Statements Qualify as Falsehoods Under *Franks*

Implicit in the Fourth Circuit's holding below is the concept that technically true but misleading statements do not qualify as falsehoods under *Franks*. Although the Fourth Circuit did not provide a detailed explanation of its decision, App. 141a-142a, it affirmed the district court's decision to deny a *Franks* hearing on the grounds that the defendants had not met their burden of proving "intentional falsehood or omission which amounts to reckless disregard." App. 39a-40a. Because the search warrant affidavit in this case included a number of technically true but misleading statements, affirming the denial of a *Franks* hearing on the ground that petitioners had failed to prove "intentional falsehood" entails implicit approval of the use of technically true but misleading statements in such affidavits.

The Fourth Circuit's approach to technically true but misleading statements in the *Franks* context differs substantially from that of other circuits. In *United States v. Calisto*, 838 F.2d 711, 714 (3d Cir. 1988), the Third Circuit held that, under *Franks*, "materially misleading" affidavits are not saved by the mere fact of their being "literally true." More recently, the Third Circuit has held that the *Franks* analysis encompasses both "false statements or omissions that create a falsehood." *Sherwood v. Mulvihill*, 113 F.3d 396, 399 (3d Cir. 1997).

The Seventh Circuit has considered this issue, and has held that *Franks* applies to "technically true statements

in the affidavit" rendered misleading by the deliberate or reckless omission of facts. *United States v. McNeese*, 901 F.2d 585, 594 (7th Cir. 1990), *overruled on other grounds*, *United States v. Westmoreland*, 240 F.3d 618 (7th Cir. 2001). The Tenth Circuit has also concluded that technically true statements rendered misleading by material omissions violate the principle of *Franks*. *Stewart v. Donges*, 915 F.2d 572, 583 n.13 (10th Cir. 1990). The First Circuit's approach to technically true but misleading statements under *Franks*, too, is different from the approach that the Fourth Circuit has implicitly adopted. In *United States v. Scalia*, 993 F.2d 984, 987 (1st Cir. 1993), the court held that *Franks* applied to "technically accurate statements by an affiant" that were "rendered misleading by material omissions." The First Circuit recently reaffirmed this holding in *United States v. Grant*, 218 F.3d 72, 77 (1st Cir. 2000) (*Franks* analysis used for "technically accurate" statements that are misleading). The Fifth Circuit has reached the same conclusion as most of its sister circuits, condemning intentional or reckless omissions that cause technically true statements in a search warrant affidavit to become misleading. *United States v. Tomblin*, 46 F.3d 1369, 1377 (5th Cir. 1995), citing *United States v. Stanert*, 762 F.2d 775, 781 (9th Cir. 1985).

Stanert, the case on which the Fifth Circuit relied in its *Tomblin* decision, held that *Franks* applies when "the affiant intentionally or recklessly omitted facts required to prevent technically true statements in the affidavit from being misleading." *Stanert*, 762 F.2d at 781. *Stanert* has been followed by several more recent decisions in the Ninth Circuit, including *Liston v. County of Riverside*, 120 F.3d 965, 973 (9th Cir. 1997) (technically true but misleading statements violate the Fourth Amendment); *Lombardi v. City of El Cajon*, 117 F.3d 1117, 1123 (9th Cir. 1997) (applying *Stanert* to § 1983 actions); *United States v. Lingenfelter*, 997 F.2d 632, 640 (9th Cir. 1993) (technically true but misleading statements trigger *Franks* analysis).

B. The Circuits Are in Conflict as to Whether Corroborating an Unproven Confidential Informant's Weakly-Based Allegation With Innocuous Facts Amounts to Probable Cause

The Fourth Circuit opinion below creates a conflict among the circuits as to whether corroboration of an unproven confidential informant's weakly-based allegations with innocuous details amounts to reasonably trustworthy facts necessary to establish probable cause. In the decision below, the Fourth Circuit noted that none of the alleged misrepresentations in the affidavit were necessary to find probable cause. App. 143a. In so doing, the Fourth Circuit implicitly held that probable cause may be found where an unproven confidential informant's statements, the basis for which is incomplete, are corroborated by innocuous facts. In direct contrast to the Fourth Circuit, the Ninth and Tenth Circuits have found probable cause lacking where an unproven confidential informant's allegations, supported by an inadequate basis of knowledge, are merely corroborated by innocuous facts. *United States v. Danhauer*, 229 F.3d 1002 (10th Cir. 2000); *United States v. Hall*, 113 F.3d 157 (9th Cir. 1997).

The conflict within the circuits arises from confusion regarding the various factors important to making a probable cause determination where an informant is the source of the underlying information. In *Illinois v. Gates*, 462 U.S. 213 (1983), this Court established a "totality of the circumstances" approach to determine whether probable cause existed in informant cases. *Id.* at 231. While retaining the factors outlined in the cases following from *Aguilar v. Texas*, 378 U.S. 108 (1964), and *Spinelli v. United States*, 393 U.S. 410 (1969), the "totality of the circumstances" standard reduced veracity and basis of knowledge from two independent requirements for a finding of probable cause to

two factors that should be considered in making the determination. *Gates*, 462 U.S. at 233. Since *Gates*' more amorphous "totality of the circumstances" test was instated, lower courts have struggled to determine under what circumstances corroboration is adequate to elevate the reliability of an informant's allegations to the level of probable cause. This struggle has resulted in confused precedent and conflict in the lower courts. LaFave, *supra*, § 3.3.

The Fourth Circuit case at issue here is analogous to *United States v. Danhauer* in the Tenth Circuit. 229 F.3d 1002 (10th Cir. 2000). The outcomes, however, are irreconcilable. In *Danhauer*, just as in the case below, an unproven confidential informant was the source of the allegations, there were no indicia of reliability and the basis of knowledge for the allegation was deficient. The types of corroboration in the two cases were also similar. Notably, however, the decision-maker in *Danhauer* had more corroboration to base its decision on than did the judge in the case below, and the Tenth Circuit still found the affidavit did not provide probable cause.

In *Danhauer*, an unproven confidential informant informed the police that two individuals were cooking methamphetamine in a garage on their property. *Danhauer*, 229 F.3d at 1004. There was no indication in the affidavit that the informant had ever given reliable information in the past, nor did the affidavit supply details establishing a basis of knowledge for the informant's allegations. *Id.* at 1005. After receiving this information the police took some steps to corroborate the allegations. The police verified the description of the property the informant had given, confirmed that the named individuals lived on the property, and ran a criminal history on the defendants. *Id.* at 1004. Each of the defendants had a criminal history, and one of them had recently tested positive for methamphetamine

during a drug test that was a condition of her probation. *Id.* at 1004. Lastly, the police conducted surveillance on the house and observed one of the defendants make multiple trips to and from the garage.

Despite this level of corroboration, the Tenth Circuit held that probable cause was lacking because the affidavit did not establish the veracity of the informant nor did it provide adequate corroboration of the informant's information. *Danhauer*, 229 F.3d at 1006. The corroboration in the case below was much less than that provided in *Danhauer*, yet the court below found probable cause. In the case below, the police verified that two brothers owned cars consistent with cars described by the informant. The only other potential corroboration was police observation of a vague exchange. During their surveillance, the police observed the defendants meet with another individual, then go to an apartment, and then meet again with the same individual. During this last meeting, one of the defendants exchanged unidentified packages with the other individual. In searching the area from which the other individual fled subsequent to a police chase, the police recovered cocaine. There was no indication, however, that the defendants retrieved a package from the apartment prior to meeting with the other individual, that the exchanged package contained cocaine, that the defendants were ever near the place where the cocaine was discovered, or even that the cocaine found at the scene had been in the possession of the other individual or had been contained in a package. This potential corroboration, especially in light of the absent facts, is analogous to the corroboration that was inadequate to support probable cause in *Danhauer*; yet the Fourth Circuit, in conflict with the Tenth Circuit, found it sufficient for probable cause.[3]

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[3] The alleged bowling alley conversation of February 17, 2000 must not be considered in the probable cause analysis because the court of appeals

United States v. Hall, 113 F.3d 157 (9th Cir. 1997), provides another example where a confidential informant seeking leniency after an arrest was the sole source of allegations against the defendant, just as in the case below. In *Hall*, as in those cases previously discussed, there were no indicia of the informant's reliability; in fact, the informant had a criminal record, *Hall*, 113 F.3d at 160, and the informant's basis for the allegations was insufficiently detailed. *Hall* again presents the question of the importance of corroboration in elevating an informant's information to the level of probable cause. In *Hall*, the informant's allegation was that his cocaine supplier drove a red and white truck and lived in a certain trailer park space. *Id.* at 157. This information was corroborated to the extent that the police followed a red and white truck to the identified trailer park space and verified that the truck was owned by a person

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below found that "none of the alleged misrepresentations were 'necessary to the finding of probable cause.'" App. 143a. Therefore, the probable cause analysis must stand without any of the alleged misleading statements found in the affidavit, including the bowling alley conversation. Moreover, even if the court of appeals had considered the conversation necessary to determine if probable cause existed, it would have erred in doing so. The case that the government relied on to justify the district court's decision to deny a *Franks* hearing for the alleged bowling conversation, *United States v. Pace*, 898 F.2d 1218 (7th Cir. 1990), raises serious policy concerns when applied in these circumstances. In this case, defendants made a preliminary showing that the government's report of an alleged conversation with a third party was an intentional falsehood by offering their denials that it ever occurred. The defendants could do no more than this. Because the alleged conversation never took place, and thus there was no third person, the defendants' denials were the only means of proving that the conversation did not take place. The decision in *Pace*, holding that denials are inadequate to warrant a *Franks* hearing, means that defendants will never be given a *Franks* hearing in situations where it is the defendant's word against a police officer's that a conversation never happened. In such situations, all that a defendant can do is deny that it occurred and if he does, *Pace* holds that his denial is inadequate to obtain a *Franks* hearing to further investigate the issue.

with the same name the informant had given them. *Id.* The decision by the Fourth Circuit below is in direct conflict with *Hall*, where the court determined that this minimal corroboration of innocent facts was not enough to elevate the unreliable informant's information to meet the probable cause standard. *Id.* at 159.

II. THE FOURTH CIRCUIT'S WEAKENING OF *FRANKS* WILL CAUSE CONFUSION ABOUT THE SCOPE OF FOURTH AMENDMENT PROTECTIONS

With its implicit holding that technically true but misleading statements do not warrant *Franks* analysis, the Fourth Circuit breaks with the precedent of its sister circuits and throws Fourth Amendment law into a state of confusion. Craftily drawn affidavits vitiate Fourth Amendment protections. As this Court has remarked: "The requirement that a warrant not issue 'but upon probable cause, supported by Oath or affirmation,' would be reduced to a nullity if a police officer was able to use deliberately falsified allegations to demonstrate probable cause, and, having misled the magistrate, then was able to remain confident that the ploy was worthwhile." *Franks*, 438 U.S. at 168.

The decision below will have the practical effect of encouraging police officers to word their search warrant affidavits cleverly, in order to mislead magistrates who are considering whether to issue a search warrant. This Court has recognized that search warrant affidavits are hastily drafted by nonlawyers during the stress and hurry of a criminal investigation, and that such affidavits cannot be expected to conform to elaborate technical requirements. *United States v. Ventresca*, 380 U.S. 102, 108 (1965). This concession to haste and lack of legal training, however, ought not open the door to sly double meanings, which are the opposite of the honest mistakes understandable in a quickly drafted search warrant affidavit.

Statements in an affidavit such as: "The concerned citizen has not given your affiant any information regarding criminal activity proven to be false," App. 154a, or "the concerned citizen was at one time a distributor of controlled dangerous substances," App. 155a, when used to describe a person who had never before furnished any information to the police, and who had been arrested the previous month for possession of cocaine with intent to distribute, App. 66a, may be technically accurate. Such statements, however, can mislead magistrate judges considering whether a search warrant should issue. Indeed, the district court judge below was confused by the statements in the affidavit. App. 16a. Misleading statements like these do not exemplify the type of mistake understandable in the context of a hurried investigation, and allowing such statements to be made does not serve the purposes of law enforcement.

The role of technically true but misleading statements in *Franks* analysis is an important and recurring issue that is in need of resolution by this Court. Allowing this area of the law to fall into a state of confusion will weaken Fourth Amendment protections by encouraging misleading, cleverly-worded search warrant affidavits.

III. A UNIFORM STANDARD FOR PROBABLE CAUSE DETERMINATIONS WHERE AN UNPROVEN INFORMANT'S INFORMATION IS CORROBORATED WITH INNOCUOUS FACTS IS OF GREAT IMPORTANCE

An individual's Fourth Amendment right to be free of unreasonable searches and seizures is one of the most important interests protected by the Bills of Rights. In this area of constitutional law particularly, it is essential that there be as clear of a standard as is possible. The Fourth Circuit's decision, in conflict with decisions of the Ninth and Tenth Circuits, is an example of inconsistent application of

Fourth Amendment protections. Inconsistent treatment of constitutional protections, such as the Fourth Amendment's, results in a dilution of those same protections.

The mere fact that the right at issue here is a core constitutional value in our system of criminal justice makes it essential that the conflict among the circuits be rectified; moreover, there is a practical value to ensuring uniformity in application of probable cause determinations. Probable cause determinations are made every day in every court in every state across the country. The vast majority of those decisions are never reviewed. Rather, judges, magistrates and police officers use the decisions of the higher courts as their guidelines for what is necessary to meet the probable cause standard. Thus, there is even greater value in establishing a clear probable cause standard for those decision-makers to follow.

Although the majority of probable cause cases dealing with informants do not reach appellate courts, there are a number that do. LaFave, *supra*, § 3.3. ("Appellate cases inquiring into the question of whether probable cause was established exclusively or primarily upon the basis of information supplied by an informant exist in great quantities"). Those cases waste judicial resources that could be conserved if a uniform rule were instated. This is particularly true because it is likely that informant cases are the majority of appellate level probable cause cases. *Id.* These practical considerations, in conjunction with the unvarying need to protect constitutional rights, weigh in favor of rectifying the conflict which the Fourth Circuit opinion has created.

CONCLUSION

For the reasons stated, *certiorari* should be granted.

Respectfully submitted.

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APPENDIX

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UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND SOUTHERN DIVISION

UNITED STATES OF AMERICA
Criminal Case No. AW-00-0137
v.
Greenbelt, Maryland
JAMERSON D. TILLMAN,
JAMES TILLMAN,
TAMMY MARIE WILLIAMS,
Defendants

Monday, June 11, 2001
3:25 p.m.

TRANSCRIPT OF MOTIONS HEARING BEFORE THE HONORABLE ALEXANDER WILLIAMS, JR. UNITED STATES DISTRICT JUDGE

APPEARANCES:

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OFFICIAL COURT REPORTER: GLORIA I. WILLIAMS
301-345-4069 COMPUTER-AIDED TRANSCRIPTION
OF STENOTYPE NOTES

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PROCEEDINGS

THE COURT: All right, Mr. Berman, yes, sir. Call this case.

MR. BERMAN: Good afternoon, Your Honor. This is United States v. Jamerson Tillman, James Tillman, and Tammy Williams, criminal number AW-00-0137. We're here for the continuation of hearing on defendants' pretrial motions.

THE COURT: All right. Mr. Cheris is with us today.

MR. CHERIS: Thank you, Your Honor. Howard Cheris on behalf of Tammy Williams, who is present.

THE COURT: And we have Mr. Grimm.

MR. GRIMM: Good afternoon, Your Honor.

THE COURT: And Mr. Rochon.

MR. ROCHON: Good afternoon, Your Honor.

THE COURT: All right. Okay. I reviewed my notes. We took the case under review and we wanted to give Mr. Cheris an opportunity to come and argue his motions. So we didn't make a decision at that time.

MR. CHERIS: I appreciate that, Your Honor.

THE COURT: All right. Yes, Mr. Cheris.

MR. CHERIS: I'll do what I can to not cover ground that was already covered.
THE COURT: Feel free, sir, to tell us your position and state it. They may not have gotten it. You state it the way you want to state it.

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MR. CHERIS: Thank you, Your Honor.
The government's opposition to the supplemental suppression motion that the defendants filed cites a number of cases, including Canfield and Rivera that talks about or the government in their response tells the Court that, well, the reason that they didn't inform the Court that the "concerned citizen" was actually a cooperating witness was because that person needed protection. I don't think any of the motions that we filed from the defendants' side has even asked for the identity of this informant. In fact, Canfield, if the Court reviewed that case, Canfield at 212 F.3d 713 -- in Canfield the Court actually had the informant's record, but it was under seal. So, we don't need the identity of the informant. We're just saying that the flavor of who that informant was or -- not so much who he was identity wise but what his circumstances

were should have been known to the Court, that he in fact was somebody working off charges, that he in fact was not somebody who was a concerned citizen, and that he in fact was not somebody who was just doing this out of the goodness of his heart but, rather, was somebody who was working off charges.

And we think the Court should have known that because it's a material misrepresentation of fact and in the kindest light is a reckless disregard for the truth. And this has particular implication obviously to all the defendants, but Ms. Williams -- and this sort of leads into my other motion,

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Your Honor. Ms. Williams, who started off in this case charged only with money laundering, now faces a drug conspiracy charge, drug counts. While we haven't been charged, there's going to be issues before the jury which leads into my severance argument or evidence before this jury about guns and guns taken from a home that will significantly have a prejudicial effect on her and she's the person who has never had any type of involvement with any offense before.

There's been no suggestion by the government -- and if the Court were to afford us a hearing, we'd like to call

Detective Black to the stand. All the surveillance information, all the discovery that they have provided us still leads us -- and when I say "us," I mean on behalf of Tammy Williams -- with a question as to what it is she did, one, for the money laundering offense to constitute knowledge on her part that this was something in furtherance of a narcotics distribution ring or in furtherance of a conspiracy, but also there's no evidence about her even purportedly making any type of phone calls, transfers of drugs, anything like that on her part such as to constitute an overt act.

And I've sort of blended all my arguments together, but based on that, Your Honor, we feel we are entitled -- at least Williams is entitled to some information from the government as to what evidence there is that shows her knowledge in January of 2000, three months before the search

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warrant was executed, that what she did in purchasing that home was somehow in furtherance of a narcotics conspiracy.

THE COURT: Well, what has been done by way of discovery? Don't you have that?

MR. CHERIS: I have discovery and I have reviewed discovery with my codefendants' counsel and I have discovery

and I'm still left with that question mark, what it is that she knew that she was doing in furtherance of a drug conspiracy. I would suggest to the Court I think that -- I don't want to dodge the Court's question, but I think that's a better question put to the government because I've looked at the discovery, I've reviewed the discovery, and I still have a question as to defendant Tammy Williams, what surveillance was done on her, what conversations that she was supposedly engaged in that were supposedly overheard by the detective that implicates her in a drug conspiracy. So --

THE COURT: That sounds like a legal argument for the jury as to whether they have enough evidence to connect her.

I'm not sure that's something I can address or the government needs to address at this point. If they don't have enough evidence to connect her to a conspiracy, she walks.

MR. CHERIS: We'd like to think that in a perfect world that would happen, but running the risk of sitting with two defendants in this multi-count indictment, again, with whom there's gun evidence, other drug evidence, it all spills over

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onto her. And the government, as they frequently do, not just in this case but all the time when you ask for a bill of

particulars, they say, "Well, see the discovery or look at the indictment and you know what we mean." And I don't. And I don't see where it's been provided. I don't see how even the best spin on legal facts can put knowledge of defendant Tammy Williams that she was furthering some type of drug conspiracy by purchasing that home three months before the execution of this search warrant. There's no evidence that in January of 2000 or even the months leading up to that that she or even the Tillmans were involved in any type of narcotics distribution before that time. There's going to be no evidence before the jury of that and I would suggest to the Court the jury is going to need to make a determination as to whether or not she was actually furthering a narcotics conspiracy. So that's why we'd ask for particulars.

Additionally, Your Honor, we'd submit on the record, but I would suggest to the Court that the nature of the indictment is such and the evidence is such that the spill-over effect is very dramatic and it will have dramatic consequences to defendant Tammy Williams.

And, lastly, we get back to really the root and heart issue of the whole case and the motions filed by the

24 defendants, which is the suppression issue. Judge, we think
25 we're entitled to a hearing on this. Demonstrations have been

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1 made in the written pleadings that there were material
2 misrepresentations of fact that should have been made known to
3 the Court. The government in its reply now suggests for the
4 first time not in the affidavit that we're not disclosing the
5 confidential informant, as is frequently seen in affidavits of
6 that type, to protect the informant's identity. Now they say,
7 well, we need to protect the informant's identity or we needed
8 to protect the informant's identity. So, actually, one might
9 argue that the government intended to mislead the issuing judge
10 by not disclosing that information. No one needed to know the
11 identity of the informant. We just needed to know the
12 circumstances he was in, and the issuing judge should have
13 known that as well, and at the very least we're entitled to a
14 hearing. And that's our motion, Your Honor. We join in the
15 earlier motions --
16 THE COURT: Is this person -- and apparently you all
17 know who it is. At least you've stated it. Is this person a
18 confidential informant? Is that what they are?

MR. CHERIS: Well, they cite him as a concerned citizen. I'm not sure if I understand the question, but, yes, he is a confidential informant.
THE COURT: I'm just wondering is he a confidential informant. I don't know. Does he have a deal with the government? Is he cooperating?
MR. CHERIS: The government in its response stated no,

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but --
THE COURT: What do you have to say?
MR. CHERIS: Deals come in many forms is what I'd tell the Court, and the fact that there may not have been an agreement with the prosecutor at the time doesn't mean that there was some type of understanding tacit with the officer who made the affidavit and that -- so, yes, there probably -- well, I don't want to say it like that. Yes, there was a deal.
THE COURT: What is the deal?
MR. CHERIS: The deal is give us information and you walk or you get some type of leniency in your case.
THE COURT: Where do you get that from? Where are you getting that from?
MR. CHERIS: Well, I get that from my common experiences with cases of this nature but also, based on that, that should have been known to the Court. This is somebody who has been charged or might be charged and has some understanding

with us that he will provide information, whether it's truthful or untruthful. This is somebody who's working off a case with us. And that was not made known to the Court. That was an intentional falsehood or material misrepresentation of fact and entitles us to a hearing at the very least.

THE COURT: All right. Mr. Grimm or Mr. Rochon, do you have anything additional you want to bring to my attention? I heard you last time, but --

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MR. GRIMM: And I'm not going to replow the same field, Your Honor. Could I yield my portion of some of my time to Mr. Rochon and reserve if the Court has any specific questions?

THE COURT: All right.

MR. ROCHON: Your Honor, thank you. And thank you again for hearing from us today. I appreciate the Court allowing us to do that.

THE COURT: Yes, sir.

MR. ROCHON: In response to what you asked Mr. Cheris, the last question, we've referenced the name of the individual in our papers under seal. I have the transcript of that individual's plea here in my hand where the recommendation is made to go under guidelines for that individual though the reason for it is not put on the record at that time

deliberately.
At his sentencing -- and I've tried to order that individual's sentencing. That sentencing is under seal and the court reporter, therefore, cannot produce it for us, though I sought to order it because the court jacket did not say it was under seal. The court reporter has indicated that the judge has put that individual's sentencing under seal.
THE COURT: What judge is it?
MR. ROCHON: Well, Judge McKee took the plea. I believe Judge McKee, Graydon McKee in Prince George's County.

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I believe Judge McKee also did the sentencing, Your Honor, because the court reporter indicated that by request of Judge McKee the sentencing was under seal.
THE COURT: You said he went under guidelines or the agreement was to go under guidelines?
MR. ROCHON: The agreement at the time was to go under guidelines, and I quote the defense attorney with the prosecutor, "That Mr. Spencer," who was the State's Attorney, "may be recommending a suspended sentence, which would be below guidelines. It's my understanding that even though Your Honor is taking the plea, he will allow us to take that recommendation to another judge."
Now, what's going on there, Your Honor -- well, I

don't need to tell you about Prince George's County. I apologize. I'm not used to people who are so familiar with Prince George's County. It was an ADA plea is why they're talking about taking it to another judge, ADA probation for nine ounces of powder cocaine for this individual who tries to solicit sexual favors from Officer Mills, who is the lady in the affidavit to whom allegedly the concerned citizen in this case reported the information. This plea, I would proffer to the Court -- now, I wasn't there and I --

THE COURT: What's the date of the plea?

MR. ROCHON: That plea is September 8, 2000. He has now received that suspended sentence under guidelines ADA

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sentence and, Your Honor, it is the case that the codefendant in that matter also had matters where he was discussed as being a cooperator in a matter in Greenbelt. The codefendant's name is known to me. Again, I don't want to put these names on the record, but I would be happy to do so under seal or at the bench.

So, the answer to the Court is that without having been there, privy to private conversations, as an officer of the Court that is clearly a cooperation arrangement and at

least as of the time of the entry of his guilty plea, he was a cooperator, and the notion that having been arrested for solicitation of prostitution and getting caught with nine ounces of cocaine that all of a sudden he was just a concerned citizen when he gave this information and wasn't trying to work off his case I think is really not an argument that ought to be given much weight by the Court, to put it mildly.

THE COURT: Mr. Rochon, these search warrants seem to have been issued months before September of 2000.

MR. ROCHON: No. These were issued March 10, 2000, Your Honor.

THE COURT: You told me September of 2000.

MR. ROCHON: He pled September 2000.

THE COURT: He pled --

MR. ROCHON: September 2000. The plea was entered then. He'd already been arrested before March 10, 2000. The

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arrest in that case took place February 17, 2000.

THE COURT: February 7th?

MR. ROCHON: 17th. The arrest was February 17, 2000. The case is continued for a period of time and eventually the plea is entered September 8, 2000. The sentencing occurred actually just the week before our last hearing.

THE COURT: Well, what do you contend the search

warrant should have stated?
MR. ROCHON: The search warrant should have stated that --
THE COURT: In March, on March 10, a couple of weeks after this arrest, what should it have stated?
MR. ROCHON: The search warrant should have stated that some time in the previous X number of months that an individual cooperating with the government in connection with drug activity provided information about -- and then described the information that was provided. That would have been truthful and that would have clarified at least two misrepresentations in the affidavit. One of them is calling him a concerned citizen. You know, Your Honor, these are terms of art, and I know you have read probably more affidavits than I ever hope to see in my lifetime, but if you're told someone is a concerned citizen, that's a far cry from a cooperating witness, and if you're told that someone was "at one time" a drug dealer," you're going to have a different impression of

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that person than if their information came in connection with their being caught red-handed a couple of weeks before.
THE COURT: See, the problem with your position is

that when I've looked at these affidavits, they say so much to let me know that we're not dealing with an innocent babe in the woods. We're dealing with someone how has seen, who has been around, who himself was a distributor. It says that right in there. I would not have used -- I'm not sure I would have used the word "concerned citizen," but it's used coupled with so many other things that let me know you're dealing with somebody who has been part and parcel of drugs. So you're already on notice that he's not the "traditional" concerned citizen.

MR. ROCHON: Your Honor, what the affidavit tells you that the Court is suggesting might cure what I see to be the problem is that the concerned citizen says he'd seen quantities of controlled substances, seen them.

THE COURT: And observed.

MR. ROCHON: I'm going to go on.

THE COURT: Look before. Look before that, the sentence above that.

MR. ROCHON: Right, "has observed them distribute controlled substances while inside the said vehicles and is very familiar, as the concerned citizen was at one time a distributor of controlled substances." Now, that information, Your Honor, if you read that -- now we know, of course, that

[14]
1 he'd just been busted a couple of weeks before. We know that
2 now. But as you read this, what you would know is, well, hmm,
3 looks like he used to be a drug dealer, used to be. It doesn't
4 tell you --
5 THE COURT: It said "at one time." I don't know what
6 that means, "at one time." It could mean the week before.
7 MR. ROCHON: Well, you know, Judge, if I said
8 something to you something like that, at one time I was
9 something, you would think that I was indicating to you that I
10 was no longer that thing that I said I was at one time. This
11 gentleman could no more be called an at one time drug dealer
12 than I could be called an at one time lawyer if I don't go to
13 court tomorrow. The last time he had ever been known to the
14 police was when he got caught with nine ounces on him. And
15 this affidavit would suggest or lead you to believe that his
16 drug activity was in the distinct past, because you'll see that
17 it's not giving any dates. And as far as what it says about
18 drug activity, it's interesting that even as to the Tillmans,
19 it doesn't allege that that information is current and the

reason it doesn't is because this affidavit disguises that the confidential source of information, the cooperating witness, is actively engaged in drug dealing and is working off a case by pointing out the Tillmans.

And I might add, what's really troubling here, all this talk about protecting the identity of the informant has to

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just fall on deaf ears, Your Honor, because when they bust the Tillmans, the police department is crowing about the fact, bragging about the fact that they did this with a prostitution sting at the border the month before, in February. And so. that's where the information about the identity of the informant is given, in The Washington Post.

Secondly, they admit they had never heard of the Tillmans before. So, the Tillmans are your classic -- at that time, at the time of the signing of this affidavit, they are not known to the police. They are your classic presumptively innocent citizen who the police have never heard of before. In that Washington Post article I submitted to you, the police officers say, "We'd never heard of these guys before." You take your classic citizen about whom the police have heard

nothing bad before and somebody comes to them who's working off a case to start giving information they're involved in drug activity and they only corroborate it to the extent they did in this warrant, that's a bad warrant if the judge had been told the truth and the judge should have been told the truth about that.

I know you not only wouldn't have used the word "concerned citizen," if you had written it and it had been in there, Your Honor, I'm confident this Court could have said, "That's not accurate. This is a cooperating witness."

The Supreme Court of the United States distinguishes

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between concerned citizens and cooperating witnesses. And if the Supreme Court distinguishes between them in its published case law regarding informants, we should, you should, and even though there's language in all these cases about these affidavits being kind of drafted by non-lawyers, it's reviewed by a lawyer before it's submitted. It's reviewed by an Assistant State's Attorney in Prince George's County. It's drafted by someone who knows that this isn't a concerned citizen. You would believe reading this that this is somebody who is reformed, because it doesn't say that he was recently a

drug dealer. It says, "Because at one time he was a distributor so he knows what drugs look like."
THE COURT: Look at that fourth line on that page here. "The concerned citizen has not given your affiant any information regarding criminal activity proven to be false."
What does that tell you?
MR. ROCHON: It tells you nothing, as you know. It's laughable. If it said he's given information that's proven to be true, it would have meaning.
THE COURT: I don't know what was in Judge Dawson's mind. I don't know what he thought. But it infers in my mind that you're dealing with not a concerned citizen but someone who has over the years worked with law enforcement.
MR. ROCHON: You know, if you had that impression, you would be being lied to and have a misimpression because this

[17]
person had not worked with law enforcement before and this is the first thing he ever did for them. So there's an example of another misstatement and misimpression that this Court even would have gleaned from this.
THE COURT: How do you know that? How do you know he's never given the police any information before?
MR. ROCHON: Your Honor, because the affidavit says

that he came forward the month of either January, February,
depending on which affidavit you look at, and I'll get to that
in a minute. But he has only come forward with information
recently. So, in that sense, he hasn't been working for them
for a long time.
And I'm proffering to the Court, and that's why we
need a hearing, you ought to be told the truth, and I suggest
to you that at a hearing I will establish the truth is that
this is the first time that individual said anything is when he
got caught with nine ounces of coke at the Eastern Avenue
border in Prince George's County and that the first time he
gave information was against the Tillmans, but it's disguised
in this affidavit. That's what you're going to learn at a
hearing.
You say how do I know that? I think I've given enough
that you should grant us a hearing and at that hearing I might
not win, but then you're going to know the truth, and that's
what I think we should find out. The request to have a hearing

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is a modest one. I'm not asking to win the motion yet. I'm
just trying to have you hear the facts.
THE COURT: Well, to get a hearing -- you've got a

pretty tough standard to get a hearing under Franks, as you know.

MR. ROCHON: Well, I do and I'm cognizant of that tough standard, but this affidavit smells bad enough that a judge should say to himself, I should find out the truth about this, because, for instance, this statement that you just pointed out that "the concerned citizen has not given your affiant any information regarding criminal activity proven to be false," I look at that as clever word play because there's no information that's been given, I would suspect, except in this case. So, yes, he hasn't said anything that's been proven to be false. That's because he hasn't said anything before.

THE COURT: Clever? But is it intentional falsehood?

MR. ROCHON: Well, I hadn't focused on that as an intentional falsehood until you pointed out that maybe one would get the flavor from this that he's provided reliable information in the past. I had not focused on that as a specific misstatement because I think it is clever language that is literally true but has a deceptive impact. In the context of a hearing where we prove he's not a concerned citizen and all the other allegations we've made, I think then I would draw that statement into context and point out to you

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1 that overall the drafter of this affidavit has mislead a jurist
2 to issue a search warrant for, at least as to my client,
3 someone who had never been convicted of or accused of -- as far
4 as I know, certainly not convicted of a crime, who was clean
5 and unknown to law enforcement for drug dealing activity, and
6 they end up going up, the ultimate intrusion, a search warrant
7 into his home. And this information is critical to the success
8 of the affidavit.
9 That's why we think you should grant us a hearing so
10 we can prove up the rest of this. And we can do that without
11 putting on the record this gentleman's identity. I've put it
12 on the record to you, but we can establish it in a way that
13 would not yield to the average reader of this record who that
14 individual is.
15 THE COURT: All right.
16 MR. ROCHON: Your Honor, I wanted to say one other
17 thing. It is the following.
18 THE COURT: All right. Go ahead.
19 MR. ROCHON: There's been reference at various times
20 to when this individual came forward with the information. I
21 said to you last time that the affidavit says January. Indeed,

the affidavit appended to the government's opposition to the supplemental motion gives the date that "During the month of January the individual came forward." Bizarrely in the affidavits for the Edmonston Road address where my client lived

[20]
along with Ms. Tammy Williams, we have two different affidavits for the same place. One of them says February. One of them says January. I'm holding in my hands the one that says February that actually contains on its cover page the fax number for Judge Dawson, "Dawson Law" is the name of that fax machine. It was faxed from there on March 10th at 7:12 a.m. That includes the February references, the date on which the informant came forward. That is consistent with our information about the date that that person came forward because he was in fact arrested February 17th. Another affidavit that's been provided in discovery as well lists for the same search warrant for the same place the date of January. I cannot explain to you how that could have happened and I think that a Court should look and we should arrange for Prince George's County to produce, therefore, for this hearing that I hope we have the originals of those matters. As you know, search warrants in Prince George's

County are maintained under seal. The Edmonston Road address was issued in the Circuit Court of Prince George's County. The original of that affidavit would be under seal.

THE COURT: Well, let's ask the government why there's two different dates. All right, Mr. Berman, what do you have to say about the arguments you've heard and how would you respond to the issue of the two dates, two different dates?

MR. BERMAN: Your Honor, without looking at the

[21]

documents that Mr. Rochon is talking about, I'm reluctant to answer until I see what pieces of paper he's talking about.

THE COURT: All right. Why don't you look at them. Why don't you just go ahead and look at them. You probably haven't had a chance to see them and look into them and I would certainly give you that chance if you need to go check or do further checking on it.

Apparently they got this from you.

MR. BERMAN: Your Honor, I really can't tell which one of these is -- neither one of them has the signature of the affiant on them. So I'm sort of at a loss to figure out which one --

THE COURT: Is the affiant Detective Black?

MR. BERMAN: Yes, he is, Your Honor.

THE COURT: On both of them?
MR. BERMAN: Yes, Your Honor.
THE COURT: All right. Well, maybe he has something in his file.
MR. BERMAN: Your Honor, I may be able to short-circuit this by simply stipulating for the Court that the correct date for the affidavit should be February. I don't have any contest that the --
THE COURT: Why don't you ask Detective Black does he have anything in his file to suggest why a January date was put in there?

[22]
MR. BERMAN: Well, Your Honor, with respect to the one that says January, I know that his answer is that that is a mistake and that it should say February.
THE COURT: Oh, that's a mistake.
MR. BERMAN: We have previously discussed that issue and I'll make that factual representation and stipulation if necessary.
THE COURT: All right. Okay.
MR. BERMAN: Your Honor, I feel like with respect to the arguments made here I'm shooting a little bit at a moving target, in that at the last hearing Mr. Rochon stated quite emphatically that his argument was not that there were omissions from the search warrant affidavit. It's that there were actual misrepresentations. The arguments made today seem

15 to go back to a theory that there were things that were omitted
16 that would have been useful or helpful or relevant to tell
17 Judge Dawson at the time of the affidavit.
18 But the bottom line is that there has been no proof of
19 knowing and intentional misrepresentations in the affidavit
20 that was submitted to Judge Dawson. Indeed, Detective Black
21 stated that the concerned citizen who provided the information
22 was at one time a distributor of controlled dangerous
23 substances. There's been no proof that that information is
24 false. Indeed, Detective Black is presenting the Court with
25 the information that this information is coming from a drug

[23]
1 dealer. There has been no proof that the "at one time"
2 statement is false. Under the defendants' surmise as to who
3 the person is, that person had already been locked up and
4 arrested and they haven't presented any proof that that person
5 was still engaged in the distribution of drugs as of March 10th
6 of 2000, the date of the affidavit.
7 THE COURT: Is this a concerned citizen or is he
8 cooperating? What is he doing?
9 MR. BERMAN: It is a person who had been charged, who
10 had provided information, who did not have any deal with the
11 police or the government as of that time.

THE COURT: As of that time meaning --
MR. BERMAN: As of the time of the affidavit. Later on, obviously, there's a plea agreement and a deal, but there is no deal in place at the time the search warrant affidavit is written. So --
THE COURT: And that was February?
MR. BERMAN: March is the date of the affidavit.
THE COURT: Excuse me. March. And no deal at that time?
MR. BERMAN: That's correct, Your Honor.
THE COURT: Just had been arrested in February?
MR. BERMAN: Had been arrested in February, had provided information, did not have a deal and --
THE COURT: So if he didn't have a deal, there wasn't

[24]

any need to put it in there. It wouldn't have been true.
MR. BERMAN: Well, that's correct, Your Honor, but the -- you know, they were in a situation here where you have a person who under those situations doesn't fall within any of the classic categories of cooperating -- he's not a cooperating witness because he doesn't have a cooperation deal. He's not a confidential informant because he's not being -- he's not a confidential informant. He's not being paid by police. He's not receiving money from police. You have a person who has provided information and that's it.
THE COURT: What is the representation -- I heard it a couple of times -- working off his something?

MR. BERMAN: That's Mr. Rochon's characterization.
THE COURT: Was he working anything off that you know of in March of 2000?
MR. BERMAN: Well, it's a person who had a charge, had decided to provide information to police, had not yet come to any sort of agreement with police or prosecutors.
THE COURT: When did he reach an agreement; do you know? And was it with state or federal?
MR. BERMAN: It's all state, Your Honor.
THE COURT: All state. Never worked anything with you?
MR. BERMAN: Correct. Whatever agreement -- I don't know the exact date of the agreement that was presented before

[25]
the Court in September of 2000. I do know it is well after the time -- any agreement is well after the time of the search warrant and there's been no -- there's been nothing presented by the defense, which has the burden here to show that there was any sort of deal at that time.
THE COURT: But, furthermore, you are making a representation to me that there was no deal?
MR. BERMAN: Correct, Your Honor, based on everything I know about the case and, indeed, Detective Black -- as the

Court pointed out before, the language in the affidavit is one that is characteristically used in situations where there is an individual who has been involved in criminal activity, who has provided information to law enforcement. That's what the corroboration language there is about. As I've said several times, Detective Black quite clearly stated that the information in the first paragraph of this affidavit is coming from somebody who had been involved in drug dealing.

Your Honor, I think we have been through before, at the last hearing, the Franks standard. The fact here is whether you treat this as a misrepresentation or an omission matter, there's been no showing by the defense of a knowing and intentional false statement or a reckless disregard for the truth by Detective Black.

And, further, there's been no showing that the affidavit as a whole does not sustain a finding of probable

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cause, which Judge Dawson clearly had at the time of the affidavit.

Unless the Court has any questions, that's all I have.

THE COURT: All right. Anything further from the defense?

MR. CHERIS: Judge, I just wanted to say in response to Mr. Berman's comments, whether or not there was a formalized

deal with the sponsorship of a prosecutor really I think is something wholly within the realm of two people. One would be the "concerned citizen/informant," and second being with Detective Black. I think the Court has had enough experience before the Court became a judge that oftentimes after somebody is arrested, deals or understandings, agreements are reached, and whether or not it's formalized with the sponsorship or aegis of the U.S. Attorney's Office or the Prince George's County State's Attorney's Office doesn't really matter so much as far as the source and the quality of that information. And that's really what we're trying to get at, not even so much that he had a "deal" but whether he had an understanding or whether Detective Black offered any type of enticement to that person to trade up. It's clear that he did and the Court should have had or the issuing magistrate should have had that information. And if the Court gives us a hearing on this, we can ask Detective Black and we can just limit our issues to that inquiry. But I think we're entitled to a hearing, Judge.

[27]

And I agree with Mr. Rochon. Granting the motion and giving us a hearing are two totally different things. We've met the threshold, Your Honor. And, again, new issues come up every time we look at this affidavit. It only just shows how cleverly worded the affidavit is, how it's not even reckless any more, how intentionally misleading those statements were, that we've met the standard and we are entitled to a hearing.

I know perhaps my other issues that I raised in my motions on behalf of defendant Williams weren't addressed by Mr. Berman. I would rest on my earlier arguments.

MR. GRIMM: Your Honor, thank you. Could I be very brief?

THE COURT: Yes, sir.

MR. GRIMM: Your Honor, for a month now we've been trying to get this proverbial cat out of the bag or, as the Court calls it, it's clear that this concerned citizen is no babe in the woods, and I think the Court is absolutely correct.

Now that the Court -- after great arguments by Mr. Cheris and Mr. Rochon, now that the Court has check-mated the government here, the government has finally conceded that this concerned citizen is indeed the person we're saying it is without saying it. So, in essence, Mr. Berman says, well, it's

hard for me to argue, it's a moving target. A moving target?
I mean, every time we make an argument, Mr. Berman looks at his
affidavit and says, for example, "Well, Your Honor, in the

[28]
second full paragraph it says 0739. I'll stipulate that that's
a mistake." Well, who is he stipulating with? I mean, a
stipulation is an agreement among the parties. But let's let
that go by the wayside. It's a clerical error at the time and
I'll give him that.
But, Your Honor, in the opening sentence of the
affidavit Mr. Rochon advances to the Court a completely
different affidavit that was presented to Judge Dawson.
Mr. Berman stipulates that that date is incorrect. I mean,
there is nothing in this record that permits him to do that.
This is contrary information that Detective Black has in two
affidavits for this same single address, which I think by
itself should caution the Court and incline the Court to grant
us a hearing.
And, essentially, Your Honor, this is what happened.
This individual gets busted for prostitution. When he's
searched, a significant amount of drugs are found. How in the
world do we get from that factual scenario to the factual
scenario that this person is now supplying information? To any

20 veteran defense lawyer or prosecutor and certainly the Court,
21 it is clear between the lines that Detective Black can word it
22 as cleverly as he wants. This person, Mr. X, was clearly on
23 the spot, caught cold. It was clear to him that he needed to
24 talk to get himself out of this situation. As Mr. Cheris said,
25 we do deals all the time and deals, especially when we get to

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1 district court, are all formalized on paper and all the parties
2 sign them. But it's clear that Mr. X at the time that he was
3 busted needed to fish or cut bait, and it's clear that he was
4 working his deal at that moment, and it's clear and I think we
5 can prove at a hearing that Detective Black did that, and he's
6 doing good police work. When you get a fish, you want to move
7 to the bigger fish. He had a prostitution bust that led to a
8 drug bust that led to this person saying, "Listen, I'm going to
9 give you the Tillmans here. How does that work for me?" It
10 doesn't need to be written down in writing and signed by all
11 the principals involved. At that juncture Detective Black knew
12 that this person was ultimately working off his sentence.
13 Even in the first sentence, Your Honor, "During the

month of January 2000" -- we don't know now when it is.
Mr. Berm says, "Well, I'll stipulate that it's another date."
Mr. Berman can change the affidavit all he wants. This affidavit in whatever form it is, it's frozen in stone back in time when Magistrate Judge Dawson had it, Your Honor. We can't change the facts. But if you just read the first sentence, "Your affiant and Detective Mills were contacted by a concerned citizen." Well, no, they weren't. They weren't contacted by a concerned citizen. They arrested the concerned citizen. He didn't walk into the police station with that suggestion and say, "I'm a concerned citizen. I have information." He was caught, as we say in the business, "holding had the bag." He

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had to cut his losses from day one. And because it's not memorialized or because Mr. Berman -- and I believe him -- is not charged with that information, he doesn't know the existence of actually any deal. This person clearly had a motive to curry favor with the State's Attorney's Office and the government and the police at that very moment, and it was unfair and it was a deliberate falsehood or in reckless disregard of the truth for Detective Black not to let Judge Dawson know that at that moment.

10 The clear suggestion in this is that this person was
11 historically, back when he was a young man, a drug dealer. The
12 play with words goes both ways. "The concerned citizen has not
13 given your affiant any information which has proven to be
14 false." As Mr. Rochon said, of course it's never been false.
15 He never spoke to him. I don't see an assertion in here that
16 he gave information previously that was true. If that had
17 happened, Detective Black would put that in there, but he gives
18 the reader the suggestion that some time in history this person
19 was a drug dealer, "as the concerned citizen," last sentence,
20 first full paragraph, "was at one time a distributor of
21 controlled dangerous substances." Muhammad Ali at one point
22 was a boxer, Judge, but he certainly couldn't get in a ring
23 now. I mean, the best he can get is his daughter can get in
24 there and throw some jabs. But that's what the suggestion is,
25 Your Honor, and I think it's absolutely clear that it was

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1 incumbent upon Detective Black to put this information before
2 Judge Dawson. Thank you, Your Honor.
3 THE COURT: Well, you have said some interesting

things, all three of you representing the accused here. And, of course, you know I'm from Prince George's County and I have seen many a search warrant and affidavit and I've seen some poor ones, I've seen some fair ones and some good ones. This, in my judgment, is one of the better ones, quite candidly. While I would not have used "concerned citizen," I don't know what I would have called the individual.

I think it's clear that this record does not suggest or does not provide -- let's put it that way -- that he was a cooperator or was a confidential informant. I certainly agree with the defense's theory that there may be reasons for him to have cut his losses or, as you say, it may be clear he needed to cut a deal, but all of that is speculative. And the reason for the tough Franks standard is to let everyone know that you can't go behind, under normal circumstances, the representations made in an affidavit, that our job is to look at the four corners of the affidavit and to determine whether probable cause exists within, and only when you can show by threshold the intentional falsehood or reckless disregard of what's true are you entitled to a hearing. It cannot be based

24 on inferences or speculation or what you believe you can prove.
25 I have not heard one definitive statement from anyone

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1 that there was a deal. What the government has told us here
2 today is that from all the information he has, there is no
3 deal. We know that some time in September of year 2000 he
4 worked a plea. There's an inference that the plea took place
5 right then and the deal could have been right around that time.
6 But the defense is arguing that he's arrested in an incident in
7 February, and you gave me The Washington Post clipping, and
8 within two weeks he had a deal. Well, that's speculation.
9 That's all that is. There's nothing definitive, nothing before
10 me to suggest he had a deal and you have to establish that if
11 you want me to call him a cooperator or accept the notion that
12 he was a confidential informant or what have you. It's just
13 not there.
14 And this affidavit, as I said, really, if you read it,
15 provides enough for Judge Dawson to have understood that we are
16 dealing with more than the "concerned citizen." We're dealing
17 with more. First of all, in the affidavit it says that he has

given some information before not proven to be false. That tells me and it may have told Judge Dawson we're dealing with somebody who has done some things before for police officers. Secondly, here is a person who has been around, has seen, has observed drugs and, in fact, is very familiar with controlled substances because at one time he was a dealer, a distributor. When you look at that, you may call it clever, but there's nothing that is a misrepresentation there. There's

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really not. He's not a concerned citizen and he's not at C.I. And so, as I said, I don't know what to call him. You call him a concerned citizen. I mean, that's clever. But, again, just because something is clever doesn't mean it's an intentional falsehood. But when you look at that coupled with the surveillance and the independent investigation that took place after that, the information about the cars, the surveillance, following to the apartment, to the homes, the other investigations, this affidavit really is replete with enough to establish probable cause. My job is to look and determine within the four corners of it whether it's based on probable cause.

Essentially the defense's theory here is that once you use the word "concerned citizen," that's a big lie and the reviewing Judge Dawson should have been given other information. Well, we know that the Fourth Circuit has told us over and over again that all detail need not be supplied. You don't have to give blow-by-blow. You simply have to give a reasonable basis for probable cause. And, as I said before, as I look at this affidavit, it tells me that we're really not dealing with a "concerned citizen" who saw something and called the police. I know that. We're dealing with a drug dealer and that's clear.

I think the affiant has been accurate. I think he's been truthful and I don't see any willful falsehood,

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intentional falsehood. I don't see it. I've seen it before and I've given a Franks hearing, but the position of the defense here is that you are simply speculating that there was a deal and you are telling me we can prove it, just give us a chance. But Franks does not work that way. You have a threshold burden of showing this Court intentional falsehood or omission which amounts to reckless disregard, and I haven't seen it. I really haven't seen it.

The only thing that I have seen is, of course, the labeling of "concerned citizen." That's really all you have

here. I don't know what I would have called that person, particularly when you have security issues and you're not trying to reveal the name of an individual. And so, maybe that is the best label to put on the individual coupled with the other information you have revealed to Judge Dawson. As I said, in conclusion here, when you look at the affidavit, Judge Dawson was given information that this person was a drug dealer, this person had worked with law enforcement before, and this person, again, had been around drugs, seen drugs, and the only thing really that's missing is a statement in there that he was busted in February and essentially there was a reason for him to work a deal. That's really the only thing missing, and that's not enough, in my opinion, for a Franks hearing. It's just not enough.

Of course, all the search warrants in this case,

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including Silver Spring, Anne Arundel County and the cars, all flow from this one statement, and there's a continuation of the investigation and the surveillance once you've gotten past the first affidavit, which is Attachment A in the government's

package. Once you've gotten past the first affidavit for the Greenbelt place, the others clearly are built upon that and they also, each one of them, contain within the four corners of it probable cause under a totality of circumstances test. So, again, I'm going to deny the motion to suppress, deny the Franks hearing. I don't think you've established enough for a Franks hearing here. In light of that, I have to grant the motion for protective order filed by the county people. Madam clerk, that's paper 57.

All right, let me go down these motions. There's a joint motion 10 by both Tillmans to suppress evidence. Deny that.

MR. CHERIS: Judge, that motion was joined by Ms. Williams as well.

THE COURT: All right, Williams. So, joint for all three. Include Ms. Williams in paper 10.

Paper 11, motion by James Tillman for enlargement of time within which to file pretrial motions. We'll grant that, madam clerk.

Motion by the government as to Jamerson Tillman in extenso that the seizure was proper and the evidence is

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admissible at trial. Is that the converse of --

MR. BERMAN: Your Honor, I think we can withdraw that given your denial of the suppression motion.

THE COURT: All right. The government will withdraw it. The government will withdraw that. That's paper 22, madam

clerk.
Motion of U.S.A. as to Tammy Marie Williams in extenso, same thing, 31?
MR. BERMAN: Your Honor, I probably need to check that. That was filed by my predecessor. If I could just take one moment to look at that.
THE COURT: All right. Take a look at that. I have paper 33 by Tammy Marie Williams to suppress. That's 33, madam clerk. That's similar to 10. Deny that.
MR. BERMAN: Your Honor, I think we can withdraw all of the government's motions in extenso.
THE COURT: All right.
MR. BERMAN: I think they have been dealt with in the other rulings.
THE COURT: All right. Paper 31, withdraw, madam clerk.
Request of Tammy Marie Williams for a bill of particulars, what's the government -- what do you have to say to that?
MR. BERMAN: Your Honor, we have addressed that in our

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papers, but Ms. Williams asks for four particulars. One of them is that we describe what actions on the part of Ms. Williams constitute money laundering.
THE COURT: Are you dealing with the amended motion or the initial request?
MR. BERMAN: I think I have only -- I think I have

only one bill of particulars that was served on me. I think the amended one doesn't change it in substance.
THE COURT: All right.
MR. BERMAN: She asks what specific actions constitute money laundering. Judge, Count 14 makes clear that the money laundering transaction is the purchase of the real property down in Accokeek as laid out in that count of the indictment.
So, the indictment more than adequately tells her what she's charged with there.
THE COURT: And you maintain that that is sufficient to connect her and sustain the offense?
MR. BERMAN: That's correct, Your Honor.
THE COURT: All right.
MR. BERMAN: The second item is that she demand that the government explain why the defendant and the counts are joined in a single indictment. That's really the function of a response to a severance motion. That isn't anything that a bill of particulars calls for. These counts are joined together because the guns and the firearms and the money

[38]
laundering in this case were all part and parcel of the same operation and those counts are traditionally tried together.

And so there's no reason for that second particular. Third, she asks what, if any, participation in counts took place on the part of the defendant to constitute the charges of drug conspiracy and money laundering and any increases under the sentencing guidelines, which I don't think are any part of a bill of particulars ever, but the bottom line is they have been given discovery on all this. The bill of particulars is not a mechanism to get a detailed narrative of what we're going to prove at trial, and the defendants have been provided with and given access to all the physical evidence and documents showing Ms. Williams's role both in turning drug proceeds into real estate and in, among other things, monitoring the Edmonston Road apartment where cocaine, crack, firearms, drug paraphernalia were all found. Indeed, she was in the apartment where one kilogram of cocaine was right out on the table next to a birthday cake and her closet was full of drugs and firearms. So, the discovery material is more than adequately provided to them.

THE COURT: Is she charged with conspiracy?

MR. BERMAN: She's charged in the drug conspiracy.

THE COURT: Have you laid out -- I don't have the indictment before me. Do you have overt acts that mention --

MR. BERMAN: No, Your Honor, because 846 is a

[39]
non-overt act statute.
THE COURT: I see, a non-overt. All right.
MR. BERMAN: And, finally, item four asks, indeed, that we describe any overt acts. As I just stated, 21 U.S.C. 846 is a non-overt act statute and the evidence about what she did is laid out pretty clearly in the discovery. So that would be our response to the bill of particulars, Your Honor.
THE COURT: All right, Mr. Cheris.
MR. CHERIS: Your Honor, if I could speak to that briefly.
THE COURT: Yes, sir.
MR. CHERIS: As far as given discovery and it's clear that she was monitoring the home, I still haven't seen any evidence of that. I was hoping maybe to get some better definition of what that evidence was through my request for particulars.
I would suggest further that our request as to the money laundering count as to what, if anything, bumps her up under the guidelines -- I would suggest to the Court that Ms. Williams is going to be entitled to a jury determination as to whether or not -- assuming she engaged in money laundering, whether or not that came through narcotics trafficking. I had mentioned to the Court earlier the home is purchased in

24 January. The warrants are not executed until March and I don't
25 think the government has laid out anything about what

[40]
1 Ms. Williams or even the Tillmans were engaged in in January of
2 the year in question such as to constitute a narcotics
3 enhancement for Tammy Williams. And so, because of that we're
4 requesting particulars on that, and the discovery doesn't
5 disclose it either.
6 THE COURT: Well, I'm not sure what more they can give
7 you. I mean, you want them to tell you their whole theory that
8 they're going to argue the case? —
9 MR. CHERIS: I don't think it's a theory that we're
10 asking for. It's the bare facts of what is shown as to Tammy
11 Williams.
12 THE COURT: Bought a house, purchased a house, stayed
13 there, was around the drugs. That's what the government seems
14 to be saying that's part and parcel of the ongoing enterprise.
15 MR. CHERIS: But it doesn't say she was around the
16 drugs in January at the time the home was purchased.
17 THE COURT: There's been open discovery. Have you
18 given them open discovery?
19 MR. BERMAN: Your Honor, the materials have all been
20 available. I'm not sure exactly what Mr. Cheris has looked at,

but the search warrant evidence and the financial evidence -- I know I mailed Mr. Cheris a package of the real estate documents and the financial evidence. The drug evidence has all been available.

THE COURT: Mr. Cheris, it sounds like you believe

[41]

what has been given you is not sufficient to convict. That's what you seem to be arguing to me and if that's all the government has and there are no other inferences that can be drawn or inferences the other way, you may have an argument, but I can't make the government give you what they don't have.

MR. CHERIS: I know much of these arguments might be made to a jury at a later time but, as I said in the beginning, we're hoping not to be there. We don't want to walk this plank, Ms. Williams and I. And so, if the government doesn't have enough evidence to move forward on a prima facie case of any narcotics laundering by her --

THE COURT: It will be thrown out by me right after they rest.

MR. CHERIS: Fair enough, Judge.

THE COURT: As soon as they rest. If they have not made out a prima facie case, it will go.

MR. CHERIS: In that case, I'll rest for today as well.

THE COURT: All right. I'm going to deny the motion for a bill of particulars based on the government having given open discovery, having mailed the information and having charged under a non-overt act section.
All right. What is this motion of Tammy Marie Williams to dismiss and appropriate relief? Is that the same thing?

[42]
MR. CHERIS: That was my Franks issue, Your Honor, which I think the Court has already ruled on.
THE COURT: All right. Deny that.
MR. CHERIS: And she had requested severance and I would submit on the record and my earlier arguments.
THE COURT: All right. I think, again, with jury instructions that I would give to the jury as to who is charged with what and the fact that she's in a conspiracy right now, she's charged with being in a conspiracy, there's generally a tendency to favor a joint trial. A conspiracy of this nature does involve, unfortunately, money laundering issues as well as guns and weapons and et cetera. While it certainly may be prejudicial to those who were not involved in that aspect of it, certainly it's a conspiracy case and I believe that the juries over here are pretty astute to the point that they can

16 listen to instructions and assess blame where blame ought be
17 assessed. I don't think there's any basis for a severance and
18 I'll deny that.
19 I've already said paper 57 I'm going to grant, madam
20 clerk, which is the motion for protective order in light of the
21 denial of the Franks hearing. That's my ruling for the reasons
22 I've given. I'm going to stamp the papers or either do an
23 order to that effect.
24 When is the trial?
25 MR. BERMAN: July 10th, Your Honor.

[43]
1 THE COURT: All right. Can we get joint voir dire
2 questions, joint instructions, verdict sheet? Can you all be
3 working on that?
4 MR. BERMAN: Yes, sir.
5 MR. ROCHON: Yes, sir.
6 THE COURT: How long is government's case?
7 MR. BERMAN: Your Honor, when we had our scheduling
8 conference call, I think we thought it could be done in a week,
9 four to five days.
10 MR. GRIMM: Your Honor, I'm sorry. Before we get
11 there, the Court denied Mr. Jamerson Tillman's motion to
12 suppress denying the Franks hearing. The Court gave me
13 sufficient time to be reheard numerous times on that and I'm
14 not going to be reheard on that.

Also as a dimension of my motion on behalf of James Tillman was a nexus argument that for the record I need the Court to rule on. The Court has read the affidavit, but the government -- this affidavit in its best light, even giving Mr. Berman all his spontaneous self-stipulated changes that he wants, is that concerned citizen says James Tillman deals drugs, he's been in his car, he's seen drugs, a silver Cadillac. He doesn't have a silver Cadillac. Later on, jumping ahead to February 17th, there's two cars. There appears to be a hand-to-hand transaction. One car is chased. Drugs are ultimately found. There's no information that that's

[44]
the bag that came from the Tillman car, although one could infer that.
Based on that information from this concerned citizen and a confirmation that James Tillman lives in Severn, Maryland out in Anne Arundel County where there's no evidence that -- no suggestion that drugs have ever been there before on any occasion, Judge Dawson signed a warrant authorizing a search of 1884 Eagle Court. The only information they had is that James Tillman was seen once at least apparently, according to Detective Black, entering that residence and he had a vehicle registered to that address.

12 In addition to the Franks, I argued under Wilhelm,
13 Your Honor, which is 80 F.3d. 116, 1996, that there was an
14 insufficient nexus. Even assuming everything in their papers
15 is true, that Mr. Tillman was at one time in a vehicle some
16 time with drugs in a vehicle, that does not allow the signing
17 judge to allow the greatest invasion there is under the Fourth
18 Amendment, which is to go into his home, and I would ask the
19 Court to deny -- or grant Mr. Tillman's motion with respect to
20 that, that there was an insufficient nexus between the
21 allegations of this concerned citizen, who we all now know is
22 really an informant, with the search of his home. In fact, the
23 facts of Mr. Tillman's case here are actually better than
24 Wilhelm and in Wilhelm they said the nexus was insufficient.
25 So I'd ask the Court to grant Mr. Tillman's motion to

[45]
1 suppress on that ground.
2 THE COURT: All right. Do you want to point me out
3 because I read something about some documents found that had
4 that connection there? Government, do you want to point me out
5 to which of the attachments is on the Anne Arundel County? Is
6 that --
7 MR. BERMAN: Attachment B, Your Honor, and if the

Court turns to Attachment B, the first page is the return. The next two pages are the warrant that was signed by Judge Rhodes of the district court, and then in the application for the search warrant, if you go to the third page of the application beginning with the paragraph in the middle of the page that begins with "Utilizing various investigative techniques" --

THE COURT: Yes.

MR. BERMAN: And if you go further down that paragraph, Detective Black represents that he's learned that Tim's true name is James Tillman and his brother is Jamerson Tillman, and he goes on to say that he's learned that the Cadillac is registered to Shantell Williams, who is in fact the girlfriend of James Tillman of 1884 Eagle Court, Severn, Anne Arundel County, Maryland. There's also observed a Toyota registered to James Tillman of 1884 Eagle Court, Severn, Anne Arundel County, Maryland, parked in front of the residence and has seen James Tillman enter into 1884 Eagle Court. So he's got several separate bases connecting that residence to James

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Tillman, and then there are the additional statements of

expertise as to where people involved in narcotics trafficking are known to conceal --

THE COURT: Store drugs, yes.

MR. BERMAN: -- conceal. And so, I think based on everything that's set forth here, there's more than adequate basis to link up James Tillman to Eagle Court.

THE COURT: I think it's pretty clear, Mr. Grimm, that when you look at the affidavit, particularly on page 3 that the government has just pointed us to, there seems to be a connection with the defendant and this residence. The car is there. He's been seen in the place. And the rest of the affidavit talks about the officer's knowledge and information and experience, and it's pretty clear to the Court that drugs once -- there's been an affidavit that someone is involved in distribution of drugs. Drugs can be stored anywhere, any place where they can be seen and found and where the car is located.

And, in fact, these cars were subject, I believe, of a search warrant.

And so, I think the law enforcement officials have every right to explore any place where there's a connection to the defendant and there's probable cause to believe. Probable cause is really all we need under the totality of circumstances

24 that drugs probably were there. And all the inferences, all
25 the experience by the officer and reasonable and common sense

[47]
1 tells you that drugs can be stored in places where people
2 frequent. They don't carry it in their pocket all the time.
3 They don't carry it in their cars all the time. But there are
4 places where they rest and sleep and visit. And it seems to me
5 it's very probable that drugs could have been there.
6 I find there's an adequate nexus for drugs at the
7 Silver Spring place, in the cars, at the Anne Arundel address
8 as well as the Greenbelt residence on Edmonston Road.
9 MR. GRIMM: Thank you, Your Honor. And just for the
10 record, I don't know if this affidavit will ever make its way
11 to the Fourth Circuit, but I think it's more than telling that
12 if what Mr. Berman argues on behalf of Detective Black is true,
13 one would think that Detective Black would make the ultimate
14 statement in the affidavit, which is, "When I go to Eagle
15 Court, Judge Dawson, I bet you and I have probable cause to
16 believe I'll have drugs," like he did in Jamerson Tillman's
17 affidavit. And what's telling and actually just screams out,
18 on the last page of the affidavit he never says he'll find
19 drugs there, Your Honor. He says he'll find everything there,

pagers, phones, equipment, computers, but never ever says "And
the affiant believes there will be drugs inside."
So, I just wanted to put that on the record just so
the Fourth Circuit has that and I guess this affidavit -- I
don't know. The affidavits in this case are somewhat fluid. I
hope this affidavit finds its way to the Court jacket. If not,

[48]
I'll get a clean one and have it marked, with permission of the
Court, Your Honor.
THE COURT: All right. That will be fine.
MR. GRIMM: Thank you, sir.
THE COURT: All right. Anything else?
MR. ROCHON: No, sir.
MR. GRIMM: No, sir.
MR. CHERIS: No, sir.
THE COURT: All motions are now resolved. So you all let me know what the next step is.
MR. GRIMM: Thank you, Your Honor.
THE COURT: All right.
(Proceedings adjourned at 4:30 p.m.)
CERTIFICATE OF REPORTER
This record is certified by the undersigned reporter to be the official transcript of proceedings in the above-entitled matter.

Gloria I. Williams
Official Court Reporter

[1]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA
Criminal Case No. AW-00-0137
v.
Greenbelt, Maryland
JAMERSON DEVOIR TILLMAN,
JAMES TILLMAN,
TAMMY MARIE WILLIAMS,
Defendants.

Monday, May 21, 2001
10:20 a.m.

TRANSCRIPT OF MOTIONS HEARING BEFORE THE HONORABLE ALEXANDER WILLIAMS, JR. UNITED STATES DISTRICT JUDGE

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OFFICIAL COURT REPORTER: GLORIA I. WILLIAMS
301-345-4069 COMPUTER-AIDED TRANSCRIPTION
OF STENOTYPE NOTES

[2]

PROCEEDINGS

THE COURT: All right. Let's call this case, Mr. Berman.

MR. BERMAN: Thank you, Your Honor. This is United States v. Jamerson Devoir Tillman, James Tillman, and Tammy Marie Williams, criminal number AW-00-0137. We're here for a hearing on various motions filed by the defense as well as a motion for protective order filed by Prince George's County with respect to various subpoenas that were issued.

THE COURT: All right.

MR. ROCHON: Good morning, Your Honor. Mark Rochon on behalf of Jamerson Tillman, who is present. Mr. Jamerson Tillman, my client, is at the end of the table.

THE COURT: All right.

MR. GRIMM: Good morning, Your honor. Bernard Grimm on behalf of James Tillman, who is immediately to my left.

THE COURT: All right. And is Ms. Williams here? All right. You can be seated. You don't have to say anything.

I did talk with your lawyer. Is it Mr. Cheris? Is that his name?
MR. ROCHON: Yes, sir.
THE COURT: And, of course, I tried to work something out today to have him here to argue his motions, but he wasn't able to work anything out. I talked with Judge Rupp in Montgomery County and they needed him for the start of a jury

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trial today. And so, I told him that I would not make any definitive decisions on any motions that he is affected by. I'll listen to argument, take any testimony, and I suspect I'll reserve on any rulings that affect him and, in fact, we're probably going to have to have a second motions day where he can be here and he can argue his case and further protect his client.
So, that's where we're going to today. But I will do what I can do today and take care of any motions that affect just the defendants here. As I said, any motions that affect also Ms. Williams, I will simply defer and have another hearing, give Mr. Cheris an opportunity to argue his case and then make a definitive ruling on those motions.
So what do we have before us that we can deal with today?
MR. ROCHON: Well, Your Honor, again, Mark Rochon on behalf of Jamerson Tillman. I guess I'll steal the podium

first in response to the Court's question, and what I'd like to do on behalf of Jamerson Tillman today is resolve the preliminary issue of whether we get a hearing under Franks v. Delaware. If the Court determines we do get such a hearing, then seek to address the motion to quash the subpoenas or for a protective order, because I think the relevancy and materiality of those materials would be affected by whether we're going to have a Franks hearing and my arguments in support of the

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subpoena I think would be in large part contingent on whether we have such a hearing.
I know there are some other motions that James Tillman filed as well, bill of particulars, some severance motions and so on that I won't be arguing on behalf of my client. I'm going to defer to Mr. Grimm on those.
THE COURT: All right, Mr. Grimm, what do you believe is relevant to your client that we can handle today?
MR. GRIMM: Your Honor, I agree with Mr. Rochon . I believe the Franks issue is the predominant issue. The motion for a bill of particulars and a severance motion, I have minor argument on both of those and would submit. At the time I filed a motion for bill of particulars there had not been what

I believed enough notice to Mr. Tillman for him to adequately prepare a defense. Since then, Mr. Berman has assumed the case, and given the exchange of motions, myself and Mr. Tillman have learned a great deal more about the case.

So, frankly, with respect to the motion for bill of particulars, I would be submitting, but I believe that the Franks issue, I think, is the predominant issue in the case that we're here on.

THE COURT: All right. Let's deal with the bill of particulars. The Court did read it and the response by the government, and in light of the discovery that's ongoing and the government, at least implicitly in your statement, having

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shared what information by law they have to, the Court will deny the bill of particulars as now moot. Deny it as moot.

MR. GRIMM: Thank you, Your Honor. With respect to the bill of particulars, I just wanted to footnote -- I think Mr. Berman in a conversation with me confirmed this, but the fact that there were no radio transmissions at any time on February 7th or March -- February 17th or March 9th. I think he stated that there has not been. If there hasn't been, then I'll accept the Court's denial of that motion.

MR. BERMAN: That's correct.

THE COURT: All right. Okay. Now, what about the severance motion?

MR. GRIMM: With respect to the severance, Your Honor,
I would submit based on the record in its entirety.
THE COURT: All right. Does the government have anything you want to add on the severance?
MR. BERMAN: We'll submit on our brief, Your Honor.
THE COURT: All right. The Court believes it's convenient to try this case together. We've evaluated all the factors associated with a severance. There's no reason the Court believes warrants any severance in this particular case.
So the Court will deny the motion to sever.
All right. What else do we have now, the Franks matter? Mr. Berman, with reference to Ms. Williams, do you have any motions that affect her?

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MR. BERMAN: Your Honor, I would need to double-check my pleading file, and perhaps Mr. Rochon and Mr. Grimm can help me out here. My recollection is that Mr. Cheris filed a motion adopting all of his codefendants' motions. So, she's affected by everything you decide here today.
THE COURT: All right.
MR. BERMAN: Certainly the search warrants generated evidence against her as well as against the codefendants.
THE COURT: All right.
MR. ROCHON: Your Honor, while I cannot speak for Ms. Williams or her lawyer, I can tell the Court that I believe

12 that -- I know he joined the motions and I think there would be
13 fairly good argument Mr. Cheris could make that he has standing
14 to object to the search of the Edmonston Road address, which
15 was rented in her name. Her mail matter was found there. The
16 government has suggested she lived there. So that that motion
17 clearly does affect Ms. Williams, the Franks litigation.
18 Despite that and not presuming how the Court would
19 approach Mr. Cheris's arguments on that, but had he been here,
20 Mr. Grimm and I were going to take the lead on arguing some of
21 those issues, with his consent and it may be efficient, since
22 we are all here, to at least -- if the Court would consider
23 addressing the issue of whether a Franks hearing is necessary.
24 THE COURT: All right. Yes, I'm going to hear you
25 today and I'm not going to make a decision because I probably

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1 want to hear from him with reference to any additional
2 arguments he has. But let's go ahead and hear you on Franks v.
3 Delaware, why you believe a Franks hearing is required.
4 MR. ROCHON: Thank you, Your Honor.
5 Your Honor, in this case the various search warrant
6 affidavits have been attached to the pleadings of the parties.
7 There's an essentially identical search warrant affidavit that

applied to both the Edmonston Road address associated with my client and the Eagle Court address associated with Mr. Grimm's client, James Tillman. When we turn our attention to that motion, it is our position that we have demonstrated material misrepresentations in those affidavits that necessitate a Franks hearing in this case, and for purposes of these arguments, Your Honor, I should point out that we filed a pleading under seal which named the person that we would represent to the Court is in fact the informant in this case. That person's name has not otherwise been published as an informant that I know of in any pleadings and I will not, if the Court pleases, refer to him by name, therefore, in my arguments.

However, I will tell the Court the following. The affidavit starts out, in fact, with the misrepresentations that we think are most critical. The first of those misrepresentations begins, I would suggest to the Court, with the sentence, "During the month of January of 2000 your affiant

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and Detective Mills were contacted by a concerned citizen."

When we stop right there, I will aver to the Court that, first

of all, in this case our representation about who we believe the informant to be is based on very solid information. Ironically, some of what the government says in response to our motion suggests that they perhaps made these references in the affidavit in order to conceal that person's identity. However, when the bust in this case occurred there was a lot of crowing about how the information had come forward to the police department, and I will ask the Court to consider and move into evidence a Washington Post news article in which law enforcement authorities indicate that the bust in this case had been made with a simple prostitution arrest along the District/Maryland border and that that was what began this whole thing, and it goes on to say that "The bust started with the chance arrest last month by a female Prince George's police officer who was working undercover as a prostitute on Eastern Avenue along the boundary between the District and Prince George's County."

Now, the affiant in this case, Detective Black, references that there is a woman detective named Mills who is one of the people who interviewed the so-called concerned citizen as he's referenced in the affidavit. In fact, Officer

Mills was working undercover along the border. Officer Mills is the person who arrested the person we have identified as

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the, in fact, confidential informant in this case. That person's matter was continued because of his ongoing cooperation in a federal court prosecution.
We've reviewed that gentleman's court jackets in Prince George's County wherein he and his codefendant in that arrest -- and I'm referring to the person named in our sealed supplement -- had both their matters continued because of ongoing cooperation and, indeed, in one instance Greenbelt itself was referred to.
The person we identified as the confidential informant was arrested on February 10th in Prince George's County by Officer Mills posing as a prostitute. During the course of the negotiations for her sexual services, he made reference to the fact of having to deliver some drugs before they could complete their assignation. Based on that as well as on his agreement to have the sexual assignation, his vehicle is stopped. Nine ounces, approximately, of powder cocaine are recovered. He and the other person inside the car are charged with that. That was February 10th.

Now, we would suggest to the Court that that person is in fact the so-called concerned citizen in our affidavit. I don't need to educate this Court very much that there's a dramatic difference between the reliability associated with someone described as a concerned citizen who has contacted the police as opposed to a drug-dealing individual caught and

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cooperating to assist in his own matter. A confidential informant busted with nine ounces of powder cocaine is a far cry from a concerned citizen.

I would point out that in the first sentence of the affidavit that there is a month that the contact is misrepresented. It says January 2000. I don't know if that's a mere inadvertence because, in fact, he was arrested on February 10th, or if that was a further effort to disguise wh the source of the information was.

To the degree that, in fact, this gentleman identified in our affidavit was providing information in January of 2000 and then he was subsequently busted on February 10th, obviously that would make him even more unreliable. I hypothesize, however, that the statement January is in error or intentionally misrepresented.

But the critical misrepresentation is to say that he is a concerned citizen and that he contacted the police only in

the sense that perhaps he asked for sexual favors from the police, but he didn't contact them within any meaningful sense for this affidavit. He was taken into custody undoubtedly unwillingly and his so-called contact was in response to his having been caught with the nine ounces of cocaine. Your Honor, I have given Mr. Berman a copy of the document from the Washington Post. I'd ask if I could approach and submit this to your clerk and ask it be marked as

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defendant --
THE COURT: All right. Yes.
MR. GRIMM: Your Honor, on behalf of James Tillman, since we've commenced the motion, I'd ask that Detective Black be excused at this point since we're discussing critical facts to his testimony in the event he takes the witness stand.
MR. BERMAN: He's the case agent, Your Honor.
THE COURT: Well, if he's the case agent, no, he doesn't have to be excused.
MR. GRIMM: I'm asking that he be excused for the record. He's getting self-educated on the cross-examination in the event he takes the stand.
THE COURT: Overruled.
MR. GRIMM: Thank you.
MR. ROCHON: If that could be a Joint Tillman 1, please.
THE COURT: All right, Joint Tillman.
MR. ROCHON: Thank you, Your Honor.

19 The affidavit goes on to describe this concerned
20 citizen in the last sentence of the affidavit's first
21 paragraph, and I'll briefly read that in, hopefully slowly. I
22 know I do talk fast. I apologize to your court reporter. "The
23 concerned citizen is very familiar with the appearance of
24 controlled dangerous substances, as the concerned citizen was
25 at one time a distributor of controlled dangerous substances,

[12]
1 especially cocaine."
2 Now, the representation that he was at one time a
3 distributor of controlled substances, suggests in connection
4 with the "concerned citizen" language that we have a reformed
5 individual. It implies the kind of epiphany that is sometimes
6 associated with reformed distributors of controlled substances,
7 and to say that he was at one time a distributor of controlled
8 substances ignores the fact that he came to the attention of
9 the police because of his current drug dealing activity. The
10 activity of his own drug dealing occurred on February 10th.
11 The affidavit, as the Court knows, is signed off on the 15th of
12 March, approximately 33 days after the arrest.
13 The government apparently would like to argue that
14 when you refer to someone as having been a drug dealer at one

15 time that that does not misrepresent his status. If I could
16 briefly by kind of associating what the Court would think of a
17 defense attorney who came to the Court the day after, for
18 instance, my clients were arrested in this case and asked for
19 them to be released because I said, well, they were arrested
20 yesterday with all that cocaine and all those guns, but they
21 were only at one time doing that and they're doing that no
22 longer, the Court and Mr. Berman would laugh me out of here
23 because they'd been caught and the question is the reliability
24 and the safety of the community, and to say that simply because
25 someone was arrested yesterday that they are no longer a drug

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1 dealer would be not given much welcome.
2 For the government to argue here as to this gentleman
3 that he was at one time -- not the government to argue but the
4 detective to represent that he was at one time a drug dealer
5 clearly implies that he is no longer, and there is no basis for
6 that claim either in the real world or as offered in this
7 affidavit. Those misrepresentations as to the source of the
8 information are critical to the evaluation of the probable
9 cause of this affidavit.
10 The Court is familiar with the whole line of Supreme

Court cases culminating, I guess, in Gates v. Illinois where we talk about the reliability of informants as being one of the -- reliability of the source of information as being one of the two critical guidelines to the establishment of probable cause. Misrepresentation as to the source of the information or misrepresentation as to the reason why the information is being given is an important misrepresentation given the teachings of the Supreme Court on your obligation to evaluate probable cause. The affidavit in this case, after introducing that this individual implicates a person known to it as "Tim" in drug dealing activity, the affidavit then goes on to the second paragraph and if the Court examines the rest of the affidavit, you will see that it is lacking in probable cause unless one is to consider the information in the first paragraph from the

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concerned citizen. The affidavit after that first paragraph says that essentially they then see a man driving a Cadillac which is the same color supposedly as one described or similar as one described by the affiant -- by the concerned citizen,

that they see that parked at some bowling alley and they see a different person driving a burgundy Chevrolet at the bowling alley.
So, now we have information that people are driving cars that are similar but no identification by the concerned citizen that those in fact are the people to whom it was referring in its information.
The next part of that second paragraph says that the affiant supposedly in an undercover activity capacity overhears Tim say something to a person referred to as his brother.
First of all, again, I would point out there is nothing in the affidavit that says this person who is overheard is the person that the concerned citizen was talking about, nothing as to how the affiant determined that this person was in fact Tim and claims, nonetheless, that in this undercover activity apparently in a bowling alley that it was able to listen to these two people talk about how much they could make distributing two keys of cocaine and 62 grams of cocaine.
The defense would point out to the Court that as to the concerned citizen, we make very detailed refutations, we think, of the claims that that is a concerned citizen and make

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detailed refutations of the claim that he came forward on his

own or that he is no longer a drug dealer.
As to this claim, it is important, I think, for us to point out that we do not accept it and we do controvert it, and we would be able to establish through testimony that it is false, and I might add, the notion -- given what was found here, Your Honor, and the Court knows that the eventual searches in this case yielded large volumes of cocaine at each of the brothers' residences, the notion that they needed to have a discussion in a bowling alley about how they would make profit from cocaine has got to be greeted with some skepticism.
The government suggests to you in its papers and otherwise, they would have been involved in drug dealing activities with each other for a long period of time given what they say they found in their apartments and at their houses, and the notion that, therefore, they needed on February 17th of 2000 in a bowling alley to talk about how they could make money selling cocaine in earshot of some undercover police officer is controverted by the defendants, and we will have evidence at a hearing to show it is not true both because of the noise within the bowling alley and because the defendants, in fact, did not have such a conversation on February 17th of the year 2000.
Your Honor, the third paragraph --

THE COURT: You're saying what? You're saying that there was no conversation?

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MR. ROCHON: There was no such conversation.
THE COURT: Well, of course, it's represented here that there was.
MR. ROCHON: It is represented. And I'm pointing out to the Court in all candor, we specifically can controvert on the concerned citizen in a way that is different here. Here essentially the proof would be a denial by the defendants that such a conversation took place. On the concerned citizen, it's a horse of a different color in terms of our controverting the representations in the affidavit.
I would urge the Court, though, that once one gets to the lack of credibility that we are going to ask you to give to Detective Black given the misrepresentations about the concerned citizen, that I would point out that he is supposedly the person who overhears this conversation in the bowling alley, according to the affidavit, not some other police officer who reported it to him. And the Court will note that that sentence reads, "Your affiant, while working in an undercover capacity, overheard Tim, his brother, and an unknown black male have that conversation."
Moving on to the next portion of the affidavit -- and this is all in an effort to show the Court there's really not much in this affidavit once you get past our concerned

24 citizen -- it is then represented that through a variety of
25 techniques, none of which are described, that they learn that

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1 Tim's true name is James Tillman and that his brother has been
2 identified as Jamerson Tillman. That is just a claim made
3 without any basis in the affidavit to support it that they have
4 somehow learned that.
5 We will be able to introduce evidence at this hearing
6 that if you were to go through motor vehicle information
7 certainly and run James Tillman, you will not get the name Tim,
8 and we would be trying to establish through the testimony of
9 Detective Black that neither through Maryland Motor Vehicle
10 Administration, NCIC, or Prince George's County records will
11 you find some way or could he offer you some way under oath to
12 show that the name Tim yields James Tillman.
13 The next part of the affidavit goes to March 9th, Your
14 Honor, and March 9th is the occasion which led eventually to
15 the arrest of Mr. Wade and Mr. Hayes, former codefendants in
16 this case. That essentially says on March 9th that the
17 defendants are seen driving their respective cars from the area
18 of 450 and Copper Lane in Landover Hills. That is, we know
19 from the earlier part of the affidavit, the bowling alley, that

they drive their cars to the Edmonston Road address. They go
inside the address. They come out. They get in the Cadillac.
Before leaving, they've been talking to some people, two men in
an Altima. When they get back in the Cadillac from Edmonston
Road, they meet that Altima. Someone gets out of the Altima.
Something is exchanged. It is not represented that they can

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determine what exactly is exchanged. It is not represented
that the something that exchanged has been seen prior to that
exchange coming from any particular place. It is not
represented that it was seen coming out of the Edmonston Road
address or transported from the cars into the Edmonston Road
address. And the Altima is stopped. The Cadillac that the
Tillmans are allegedly in is not stopped, and so nothing is
alleged to have been recovered from them.
The person who had gotten out of the Altima and who
had allegedly interacted with the Tillmans is not arrested that
evening. The other person who had never gotten out of the
Altima and who did not allegedly interact with the Tillmans is
arrested.
According to the affidavit, recovered from the

15 scene -- this is a quote -- "Recovered from the scene was 1,262
16 grams of suspected cocaine hydrochloride," placed in the
17 paragraph that you would be led to believe -- and, in fact, I
18 suppose it is true -- I don't know; I wasn't there -- but is
19 that that was recovered where the driver and the passenger fled
20 the Altima on foot. It does not say from whom that was
21 recovered, or whether any particular person discarded it, or
22 whether it was recovered from the car or the scene. It simply
23 says that that's on the scene of that area.
24 That is it for this affidavit in terms of the factual
25 representations. It is not stated in that affidavit that

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1 approximately 1,200 grams of cocaine had been given to the
2 people in the Altima by the Tillmans. It is not represented
3 that it was in a package that looked similar to anything seen
4 and exchanged between the Tillmans and the man who got out of
5 the Altima. It is simply on or near the scene where two people
6 in the Altima fled, one of whom was arrested. That is it.
7 Now, in fact, it is represented in other places that
8 that item was discarded by the person who had not gotten into
9 the Tillmans' car, not discarded by the person who had gotten
10 into the Tillmans' car. That is another fact that the

magistrate, I think -- excuse me -- the judge in this instance, district court judge or circuit court judge out in Prince George's County. That is another fact that would have been helpful to establishing the absence of probable cause here, that the contraband was not in the possession of the person who allegedly interacted with the Tillmans. It's in the possession of someone who did not interact with the Tillmans who had been in the Altima and apparently interacted with the person who had gotten away or otherwise had the substance on his person. The reason for my longer recitation of the rest of the affidavit, Your Honor, is to point out that the information supplied by the alleged concerned citizen is critical to finding probable cause here, because otherwise what you have is a supposedly overheard conversation in a bowling alley, an association, tenuous association, with someone who is a

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criminal, and that's not probable cause. The final piece of the puzzle is that the concerned citizen has supposedly said that drugs are stored in the vehicles and the search warrant is for the houses. There's been no representation in the affidavit at any time as to the Eagle Court address, which is Mr. James Tillman's, except to

say that he lives there.
As to Jamerson Tillman's address, there's no representation that, in fact, any contraband would be found there. And this affidavit is so lacking in probable cause to search those places, particularly in light of the misrepresentations, that following a hearing on the affidavit, we are confident the Court should suppress the evidence recovered pursuant to the execution of these search warrants.
Because of the material misrepresentations about the concerned citizen, at this juncture all we can ask the Court for is our hearing to which we're entitled under Franks. In their opposition the government says, well, we'll stipulate now that the concerned citizen in fact had a pending drug case. We need more than that stipulation. We need to flesh out the fact that this concerned citizen didn't contact the police independently but the citizen came forward in connection with a criminal matter from which the citizen expected a benefit. We need to flesh out that, in fact, this is no concerned citizen.
This is really the lowest form of source that we know of,

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someone who's got an ax to grind, someone who's got a pending case and a need to deal with it.

We would ask the Court for our hearing and following that hearing we'll ask for appropriate relief.
THE COURT: Let's see if Mr. Grimm has -- Mr. Grimm, do you have anything additional you want to say?
MR. GRIMM: The only thing that I would add on behalf of Mr. James Tillman, Your Honor, is that in the affidavit there is an allegation by Detective Black that the Tillman brothers together went to an address that was affiliated with Jamerson Tillman. There is no allegation in there during the whole investigation that the Tillmans allegedly ever went to James Tillman's house, which was in Anne Arundel County, to ever get drugs.
So, to supplement Mr. Rochon's argument a step further, the nexus link between the drug activity and Mr. James Tillman's home is even weaker for the United States than it is against Jamerson Tillman. So, to that extent I would incorporate by reference all of Mr. Rochon's arguments. I find it unnecessary to -- those arguments were eloquent and well stated.
The principal cases we'll be relying on, Your Honor, which we cited to the Court, are Wilhelm and Lalor, and I'll supply those cites to the Court. I have extra copies if the Court needs them.

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MR. ROCHON: Your Honor, before you hear from

Mr. Berman, I have in my hand the paperwork for the arrest of the gentleman referenced in our sealed affidavit that bears out the representations I make.

THE COURT: Arrested on February 10?

MR. ROCHON: On February 10. And I have the statement of probable cause prepared by Detective Mills of the Prince George's County police with the same I.D. number that appears in the affidavit.

In the interest of protecting the informant's identity, I'm giving a copy of that entire document to Mr. Berman and after he's had a chance to review it, I'd ask that he simply agree that my representations are true.

Otherwise we've got to file it under seal and I don't know that we need -- I'm happy to submit it as an exhibit. I don't know that I need to.

THE COURT: All right. So, you just disagree with the representation that a report or a contact was made in January?

MR. ROCHON: I think that's not true.

THE COURT: You don't think it's true? You don't think it's true, right?

MR. ROCHON: Your Honor --

THE COURT: Of course, as you know, under the case law we are not here to dispute what an affiant says. I'm looking for intentional misrepresentation or reckless disregard and

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that sort of thing. That's what I'm looking for. And it seems like what you have stated are two main issues. One is that you have labeled the individual "a concerned citizen," and then, secondly, you have left out the fact that on February 10 an incident occurred which caused him to have pending drug charges. And, of course, you disagree with the inference "at one time," what that creates. But that seems to be what your argument is.
MR. ROCHON: If I could, Your Honor, I would be most delighted if it turned out that, in fact, the gentleman had been giving information in January and then it turns out he gets busted on February 10th. That would be extremely helpful to the defense, because then it would make the "at one time" representation even more dubious and suggest that this concerned citizen after he began his concerned citizen activity was proven to be a drug dealer himself.
Because of the representations in the newspaper article of Officer Mills and my investigation into the cases of this individual in Prince George's County, I am quite confident that the person we have identified as the source is the source because of what's said in the court case of him and his

codefendant, the representations that are made there about their ongoing work in federal court here. So, I'm confident of that. And if it turns out that he was also supplying information in January, then I think that makes the

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misrepresentations that much better, but I don't need that. I assume that they got that wrong intentionally to hide who the source was, or accidentally. I don't know. That's what hearings are for. But I think just the misrepresentation as to his background and reasons for coming forward put him in a different category.
Mr. Grimm referenced a second ago Wilhelm from our court and Wilhelm is a case that ironically enough says -- and it's a Fourth Circuit case found at 80 F.3d 116 -- that they are particularly concerned -- I want to get the quote exactly right. "We are particularly concerned with Proctor's statements" -- Proctor is the affiant -- "that the informant was a 'concerned citizen,'" and they go on to discuss other things they were concerned about, when, in fact, of course, it was a person who is not in the status of a concerned citizen.
So, our circuit has recognized that these are terms of art and if I come to you and I say, "I've got information from

18 a concerned citizen," that suggests one background for that
19 person that's far different from I got background from a guy
20 who deals drugs. And I think that that misrepresentation
21 cannot be justified on the basis of misrepresentations are
22 permitted to hide the identity of sources. The government's
23 opportunity to try to control the revelation of the identity of
24 a source does not trump the obligation to be truthful in an
25 affidavit that is designed to establish probable cause to

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1 search a person's home.
2 THE COURT: All right.
3 MR. BERMAN: Your Honor, Mr. Rochon handed me some
4 documents. I'm not sure what the stipulation was that was
5 requested. I will stipulate that these are police documents
6 relating to the person that Mr. Rochon believes was the
7 concerned citizen. I don't know what other use he wanted to
8 make of them.
9 Your Honor, I think you hit the nail on the head in
10 asking Mr. Rochon where is the evidence of an intentional
11 misrepresentation here, and while I recognize that Mr. Rochon
12 was addressing primarily the facts, I think it's noteworthy
13 that he did not address at all the standards for conducting a
14 Franks hearing in this circuit, a circuit where the Franks

requirement has been by the Fourth Circuit's own language
construed very strictly and requires two things because, really, what Mr. Rochon is talking about here is the failure to
include or the omission of additional information about the
person identified as the concerned citizen, and the defense has
the obligation to make a preliminary showing of two things.
First of all, that the affidavit omits material facts with the
intent to make or in reckless disregard of whether they make
the affidavit misleading. And the Fourth Circuit has said on
many occasions that conclusory statements are insufficient and
that there has to be a showing of intentional false statement.

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The second part that the defendant must make a
preliminary showing to is that the omission has to be necessary
to the finding of probable cause. In fact, the Fourth Circuit
said in the Colkley case that the omission must be necessary to
the finding of probable cause. It must be such that its
inclusion in the affidavit would defeat probable cause. And
the fact of the matter is, Your Honor, it's, I think, right at
that stage the defense argument falls on its face, because had

the information been included -- had the affidavit included the information that the concerned citizen was someone who was not just a drug dealer but who was also facing criminal charges, the fact remains that there would still be probable cause to warrant the search of these locations. In fact, it's probably a fair surmise that Judge Dawson assumed that when he read the affidavit, but the fact of the matter is that had additional information about the concerned citizen been included in the affidavit, there would still be probable cause there. And that is essentially the end of the inquiry, I think, because the defendants have failed to make the showing of materiality. They have failed to show that this fact that they rely on so heavily would -- that its inclusion would have defeated probable cause that was found by Judge Dawson. I think the record goes on to show, Your Honor, there's simply no basis for finding any kind of intentional misrepresentation, any intent to mislead on the part of

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Detective Black when he submitted his affidavit to the Court. The Court is familiar with terms of art that police departments, particularly the Prince George's County Police Department uses with respect to individuals who provide

information to law enforcement. There is a very particular meaning to the term "cooperating witness." There is a very particular meaning to the term "confidential source" or "confidential informant," and the fact is that the defendants have not made any showing and nor was it the case that the person who provided the information was a confidential witness or confidential source or confidential informant who had any kind of deal with law enforcement. There has been no showing made that the person that they believed to be the confidential source had any sort of deal with law enforcement and, indeed, there's been no showing made by the defense that the person was cooperating with law enforcement at the time that the affidavit was executed.

The bottom line here, Your Honor, is that Detective Black identified the single most probative and single most damaging fact about the concerned citizen, namely, that the concerned citizen was someone who was intimately familiar with and involved in drug dealing, and that information was related to Judge Dawson in the affidavit and related to the other judges in the subsequent affidavits.

I think it's worth pointing out, Your Honor, as we did

[28]
in the paper we filed on Friday, first, that there's a general point and a specific point, and the general point the Fourth Circuit makes in Colkley and I think Colkley is a very important case here. It's probably the Fourth Circuit's leading case on Franks hearings and it's a case in which the Fourth Circuit said two things. They not only said that Judge Maletz was correct in concluding that the affidavit in question supported probable cause, the Fourth Circuit went out of its way to point out that they were reaching their decision for a different reason because, in their view, Judge Maletz never should have held a Franks hearing in the first place, and in the course of their discussion of the Franks standards and why district courts should be very strict in authorizing Franks hearings, the Court of Appeals had an extensive discussion about the difference between Franks and Brady, and they go on to say that it is simply improper to try to import all of the obligations that the prosecution has at the stage of a full-blown criminal charge and trial under Brady into the search warrant proceedings because they deal simply with the question of probable cause, not ultimate guilt or innocence.

21 The Fourth Circuit points out that officers such as
22 Detective Black who are non-lawyers drafting affidavits in the
23 heat of an ongoing and fast moving investigation need not and
24 should not be burdened with the obligation to disclose every
25 possible piece of impeaching information in an affidavit

[29]
1 because that would then turn every search warrant into a Brady
2 contest and that is not the appropriate function of a Court
3 under Illinois v. Gates for making a probable cause
4 determination. That's the Fourth Circuit's general statement,
5 that there is a huge difference between Franks and Brady.
6 Other circuits that have addressed the question have
7 made the more specific point, and we cited them in our papers
8 the other day, that it is in fact completely appropriate for a
9 law enforcement officer in the course of an ongoing
10 investigation where information is used, it is appropriate not
11 to include every detail about the potential criminal record or
12 criminal charges in a resource because in many instances
13 including every bit of information about a source would
14 compromise that individual's anonymity. And certainly in the
15 relatively small tightly knit drug world of the Tillmans to
16 have disclosed additional information about the source of
17 information about the Tillmans could well have left that

individual at the wrong end of some of the arsenal of weapons
that were ultimately recovered in this case.
So, the fact remains, Your Honor, or the fact is that
under the law, both under the Fourth Circuit's Franks standards
and under some of the cases we cited the other day, it was not
incumbent upon the officer to include every bit of impeaching
information about his source of information.
More to the point and more specifically, when it comes

[30]
to this affidavit, the detective appropriately identified the
source of information as someone who had been involved in drug
dealing, and there has been no showing made by the defense that
there was a material misrepresentation made, an intentional,
reckless, willful misrepresentation by Detective Black that
omitted a fact that otherwise would have defeated probable
cause.
A few comments on some of the things Mr. Rochon said
during the course of his remarks. Mr. Rochon kind of
deconstructs and picks away at the phrase "was at one time a
distributor of controlled dangerous substances," but, in fact,
the fact of the matter is that there has been no showing that
at the time that Detective Black wrote his affidavit, the

14 person was currently a distributor of dangerous substances and
15 no showing that Detective Black made any intentional, willful,
16 reckless false statement there.
17 Now looking back on the document and deconstructing it
18 more than a year later, Mr. Rochon draws the inference that the
19 detective supposedly was implying that the source of
20 information was a reformed drug dealer. That Mr. Rochon may
21 draw that inference, I think that's a matter of after-the-fact
22 textual analysis and certainly does not amount to a showing
23 that Detective Black made any sort of intentional
24 misrepresentation to the Court.
25 Mr. Rochon goes through the remainder of the affidavit

[31]
1 and what's noteworthy about his claims concerning the bowling
2 alley incident, or the MVA records, or the events on March 9th,
3 but particularly his claims about the bowling alley or the MVA
4 are the claims that the defense would present contrary evidence
5 were there a hearing. Well, that's the function of a trial and
6 if there are defense witnesses who would present contrary
7 evidence concerning what happened at the bowling alley or
8 what's available from MVA records, that's something Mr. Rochon

is welcome to present to a trial, but he has made no showing that Detective Black's representations to Judge Dawson were knowingly and intentionally incorrect, and a mere proffer that there is defense information that would contradict the information in the affidavit is not a showing of intentional falsity needed under Franks.

In addition, Your Honor, with respect to the bowling alley, and MVA, and March 9th aspects of the affidavit, this is a situation where the judge at the time, Judge Dawson, and you looking back to determine whether Judge Dawson abused his discretion in granting the search warrants are looking at the evidence as a whole and what the remainder of the information does, the bowling alley information, the MVA information, the March 9th incident in which the Tillmans in their vehicle have an exchange with other individuals in another vehicle and shortly thereafter a large quantity of drugs is recovered from the vicinity of that other vehicle, all those things link

[32]

together to join the information provided by the concerned source that the people that Detective Black later identified as

the Tillmans were involved in narcotics trafficking. Detective Black's statements of expertise, including the recitation in his affidavit that controlled dangerous substances and related documents are kept in locations that are considered safe by drug traffickers, such as safety deposit boxes, residences, vehicles, and on their person, all these things linked together in their totality make a finding of -- support a finding of probable cause which this Court should not disturb.

So, Your Honor, in conclusion, we would submit that, again, the standard for a Franks hearing is a knowing, and reckless, and intentional falsity and the omission of something which is material, which if included in the affidavit would defeat probable cause. The fact of the matter is that there's been no showing that Detective Black made any false statement or omitted any information which itself would have defeated probable cause.

Mr. Rochon at numerous times during his recitation talked about things that we need to flesh out, but that's exactly what the Supreme Court and the Fourth Circuit have said a Franks hearing is not for. It's not an opportunity for somebody to examine the police officer and flesh out facts. A Franks hearing is only upon a showing of intentional material

falsity, which simply has not been made here. Thank you.
MR. GRIMM: Your, Honor could I rebut on behalf of both?
THE COURT: Yes.
MR. GRIMM: Thank you. Your Honor, the reason the government so vigorously opposes a hearing in this case, and I know it's allowed in Franks when there's a substantial advancement of facts by the defense that show intentional falsehood or reckless disregard of the truth -- the reason for that is this affidavit is fraught with misstatements, and I'm not dressing it up and saying, well, based on information and belief. It's certain. There are misstatements in this affidavit. Mr. Berman says if there are misstatements, they're peripheral misstatements that don't go to the core. The misstatements go to this concerned citizen. If the Court excises what's relayed by the concerned citizen to Detective Black, which Franks after a hearing instructs the Court to do, and if probable cause can still win the day, then essentially the Franks motion is a nullity in that scenario. However, in this case the misstatements concern the concerned citizen. The chief threat that the Fourth Amendment is designed for is for the invasion into your home by government agents legally or illegally. Obviously of most concern are illegal invasions not based on probable cause.

25 I'll be very clear about this, Your Honor, and I won't

[34]
1 replow the same field that Mr. Rochon did. Mr. Berman -
- and
2 I'll try to reply -- says that the misstatements or reckless
3 disregard for the truth statements -- it's not both. It's one
4 or the other that the defendant must make a substantial
showing
5 of -- are not necessary to the probable cause finding. This
6 concerned citizen is this affidavit. There is no other
7 witness. There is no other person that sees drug dealing.
8 There are officers at the end who see an exchange, but the
9 concerned citizen is the advent of this whole affidavit.
10 Mr. Berman then says, well, we now know based on his
11 response that the concerned citizen has pending drug
charges
12 and other charges. Well, you can't fix it now. The
affidavit
13 is frozen in time and space and context. You can't later
on
14 say, well, now that I've learned or now that we know or
now
15 that the defense discovered this person is not a
concerned
16 citizen, I'm relaying that to the Court, and that somehow
17 bandaids this hemorrhaging affidavit.
18 I think Mr. Berman said that Magistrate Devlin
19 probably assumed the concerned citizen was a drug
dealer. I'm
20 not sure he made that statement. I don't know how one
would
21 make that assertion.
22 This concerned citizen, Your Honor, suggests to the
23 Court -- and I would submit that if a police officer came
to

24 the Court and said, Your Honor, "I have an affidavit," on one
25 hand it's based on the word of a concerned citizen, and on the

[35]
1 other hand it's based on the word of an informant and all the
2 trappings of an informant and all the biases of an informant,
3 and the fact that an informant in many cases is an accomplice,
4 and the fact that it conjures up in one's mind the accomplice
5 instruction that the Court would give at a trial saying these
6 people have every reason in the world to put the weight on
7 someone else, would make the Court clearly err on the side of
8 signing a warrant or examining a warrant by a concerned
9 citizen. It suggests to the reader that the concerned citizen
10 in some patriotic citizen who is trying to help the police in
11 their ability to ferret out crime and drug dealing.
12 I'm telling the Court, Your Honor, that the first
13 sentence of this affidavit, "During the month of January 2000
14 your affiant and Detective Mills were contacted by a concerned
15 citizen" is simply an outright misstatement. The individual
16 wasn't arrested until February. So, if January is not wrong in
17 that regard, then their statement later on in that same

paragraph that he was at one time a distributor of controlled substances is wrong. So, I submit to the Court either the first sentence of the first paragraph or the last sentence of the first paragraph, either way one slices it necessarily has to be wrong. I would submit to the Court that goes to the core of the affidavit because what you're doing is shielding from the reader of that affidavit in this case, the judge, who your

[36]

concerned citizen really is. He's someone who has a reason and a motive to get himself out of trouble. We didn't cite this and I can argue, but there's a case from the First Circuit, United States v. Vigenac, V-I-G-E-N-A-C, 176 F.3d. 565. The Court goes on to state -- and it's a Franks case -- "First and most important, the agent neglected to mention the informant's long criminal history, his numerous aliases, and his recent plea agreement." We don't have aliases or plea agreements, but we have a complete misrepresentation by Agent Black who this concerned citizen is. He is a drug dealer. He's involved in drug dealing. He's involved in trying to free himself from long prison sentences. I guess I'm not sure why we're engaging in the cat and mouse. Mr. Berman as he sits there knows who the informant is.

15 I have no problem with coming up and relaying that at the
16 bench. I'll agree to a protective order not to share it with
17 the Tillmans. But it's clearly the person who we say it is or
18 it's the same type of person. Either way, that information was
19 kept from the reader of this affidavit, in this instance, Judge
20 Devlin.
21 What's most telling about James Tillman's affidavit,
22 Your Honor, there's a mention that he's seen going into an
23 address in Anne Arundel County on Eagle Court one time.
24 There's an allegation there's a car registered to him at that
25 address. There's no allegations of drugs in there. There's no

[37]
1 allegations that he's seen coming there with packages, going in
2 there with packages. It's so telling that perhaps it's an
3 oversight that in the affidavit Detective Black doesn't even
4 allege that there's drugs in there.
5 So, this affidavit is my best argument for a nexus
6 which is intertwined with the Franks v. Delaware argument.
7 Lalor as we cited in our papers to the Court says it's not the
8 issue of whether you can arrest Mr. Tillman. Do you have
9 probable cause to arrest him? Do you have probable cause to

believe that in that address at Eagle Court there's presently drugs? And there is no information in there whatsoever. And I'm jumping ahead of my Franks argument, but if the Court were to excise, which we believe it should, the false statements by the informant, and I know the Court asked Mr. Rochon are you just saying those two things or three things, we are saying these things, but we believe that once the Court sees that bad faith was engaged in -- and I'm not knocking Detective Black. He may have strategic reasons for misleading the reader of this document he ultimately knows will be the Tillmans so they don't figure out who his informant is. The point of the story is you can't mislead the judge and that's what he did. He misled the judge into thinking this concerned citizen was a one-time former drug dealer, this concerned citizen was met in January, this concerned citizen didn't have any recent drug dealing activity in his lifestyle,

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which three and a half weeks before or four weeks before he was caught red-handed by Detective Mills. So, I submit to the Court that we have made a substantial showing under Franks v. Delaware to the point that the United States must present Detective Black at this juncture, not us to unravel these misstatements in the

affidavit, Your Honor. Thank you.
THE COURT: All right.
MR. ROCHON: Your Honor, in addition to adopting Mr. Grimm's arguments, I just have a couple of minor points in addition. Mr. Berman relies extensively on Colkley as supporting his position. I think it's important to look at Colkley pretty carefully, therefore. Colkley is the case that he referred to Judge Maletz where Judge Maletz convened a Franks hearing and the Fourth Circuit upheld his ruling denying the motion to suppress, and in what has to be called dicta says, "But we add that he really didn't need to even have a Franks hearing." I say dicta because obviously not necessary to its ruling. They just needed to affirm him. But they go on to say, well, he didn't need a hearing. And even taking that dicta as authority, what they say in Colkley is the reason is because what we have here are omissions, and while omissions can rise to the level of Franks problems, they don't in this case.
In Colkley the omissions were that the defendant --

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actually, I believe it's defendant Williams in that case, but it's called Colkley, but the co-appellant had his picture shown to eyewitnesses in the bank robbery and they had failed to

identify him or had identified another. So that there was no misrepresentation as to the identification by witnesses. There was a failure to include information that appellant Williams felt was exculpatory, and the circuit said that that was not enough to warrant a Franks hearing because, first of all, the role played by that person was such that he really wasn't -- the person Williams was alleged to be hadn't really been seen by the witnesses. And, more importantly, there clearly had not been a misrepresentation as to what eyewitnesses said about Williams. And, lastly, he pointed out that within a very short period of time after the robbery, Williams had purchased a vehicle with money that was, in fact, target money from the bank robbery, that he had in fact been in possession of the proceeds of the crime and that he had a close association with Colkley and they were seen together and shared together and they both had bought cars within a few days of the robbery with money, cash, including in Williams' specific case, money that had been stolen in the bank robbery. He had a long history of bank robbery as well. So they said you didn't need to do a hearing.

Well, we don't have an omission case here. This is a

misrepresentation case. This is not an instance where, for

[40]
instance, the affiant said, "I've got information from a source whom I will not describe further because of concerns for his safety." We have a representation that the source is of a particular nature and kind, which is different than the nature and kind that the source is, and that's a misrepresentation. The government complains in another part of its argument that we haven't established that that person who is the source in this case was cooperating at the time of the affidavit. That asks too much even in the Franks context. We have made a strong preliminary showing of a false statement here. Having made that showing, for the United States to say but we haven't shown what his precise status was in confidential communications with the agent requires us either to read minds, which we can't do, or make representations as to that status that we would be irresponsible to make. I believe at a hearing we would establish that the person was in fact in active cooperation. I believe that because I have read the documents that have shown his case being continued and continued because of his cooperation. I believe that because it's clear that that person is the source.

21 Yet Mr. Berman just argued to you -- and I wrote this down --
22 that we have not made a showing that he was cooperating with
23 law enforcement at the time of the affidavit. Mr. Berman
24 obviously wasn't present. So he has to rely on, I guess, the
25 witnesses he speaks to or chooses not speak to, whatever

[41]
1 decisions he makes. But we state to the Court as officers of
2 the Court that we think this factual record would indicate to
3 the contrary, given the representations we've made about the
4 actual source.
5 And I would suggest to the Court that because this is
6 not an omissions case that Colkley really doesn't control here
7 and that the cases the government cites that talk about you can
8 protect an informant's identity do not include misrepresenting
9 the facts about an informant. They include omitting things on
10 occasion to protect his identity but not misrepresenting his
11 status.
12 Finally, Mr. Berman says, well, the Court knows that
13 in Prince George's County there are terms of art for
14 confidential informants or CS's and CI's. He didn't mention
15 "concerned citizen." That's a term of art as well and a

"concerned citizen" is not used normally with a "cooperator."
That reference wasn't to protect the identity of the informant.
It misrepresented the nature of the informant.
At this juncture you should strike all the information given by that informant. If the government wants you nonetheless to consider it, then we need to have a hearing in which we can establish what the true facts about this person are.
In Canfield, which is one of the cases the government cites for its proposition about protecting the identity of

[42]
informants, that's exactly what the Court of Appeals did. They said, now it's our obligation to incorporate into the affidavit the truth about this person's record to see if it negates probable cause. That's what you should do here. You don't have the truth about this person because we haven't had our hearing yet. At that hearing we think we're going to establish that once all the information is in the record, there's no longer probable cause. Actually, let me correct it. There is still no probable cause. We have also argued in another portion of our pleadings that this affidavit doesn't make out probable cause on its face, Your Honor.
THE COURT: All right. Do you have any other motions?

13 Any other argument you want to make on anything else? Are
14 there other search warrants?
15 MR. GRIMM: Your Honor, the statement of facts -- if I
16 could move in jointly as Tillman Exhibit 2 for portions of the
17 record, the statement of facts regarding the arrest of the
18 individual that's the informant.
19 MR. BERMAN: We would move that that be moved in under
20 seal and that that person be identified as the alleged
21 informant.
22 THE COURT: All right.
23 MR. GRIMM: Correct. And when we first filed our
24 papers, we were the ones that sought to shield the identity of
25 that person.

[43]
1 THE COURT: All right. Place it under seal.
2 MR. GRIMM: I agree with Mr. Berman in principle. If
3 I could offer it up and then I'll submit a sealing order to the
4 Court.
5 THE COURT: All right. That will be fine.
6 MR. GRIMM: Thank you.
7 THE COURT: It will be received.
8 MR. GRIMM: May I come up, Your Honor?
9 THE COURT: All right.
10 Are there any other motions I need to address this
11 morning? I see Mr. Orenstein here. Mr. Orenstein, you're
12 spending more time in federal court now than in state court.
13 MR. ORENSTEIN: It seems so, Your Honor.

MR. ROCHON: Your Honor, I think Mr. Orenstein may be here on the motions to quash and protective order.
MR. ORENSTEIN: That's correct.
MR. RICHON: Your Honor, I am going to be the first to say that I think if we have a hearing that I would prevail on that. If we don't have a hearing, then I certainly would not have a basis to seek to have, say, the personnel files of these officers today. I'll tell the Court that the rationale -- I don't even need to get into the rationale. I mean, everything to do with the records and the subpoenas has to do with whether we have a hearing.
THE COURT: All right. Well, I'm not going to reach a

[44]
decision today on that because Mr. Cheris is not here and I want to hear from him on it, see if he has anything additional or whether he wants to submit. Anything else we can resolve today?
MR. BERMAN: Not from us, Your Honor.
THE COURT: All right, madam clerk, can we possibly get another date?
MR. ROCHON: Your Honor, I have a scheduling issue. I don't know if we have dates for Mr. Cheris. I know we have a trial date here that is July 10th. I don't know what dates we

have for Mr. Grimm or if that's going to jeopardize the trial
date.
THE COURT: Do you have a problem with July 10?
MR. ROCHON: Your Honor, I have a problem I may need
to address with Judge Spencer down in Richmond on July 10 who's
got a matter of mine that looks like it's going to carry over.
I certainly have no problem with July 11th. As much time
between your ruling on the motion and the trial is in our
interest because I think it doesn't take a rocket scientist to
see that this motion is the critical part of this trial.
THE COURT: Sure, sure. I understand. Let me see
what Mr. Orenstein has. Yes, Mr. Orenstein.
MR. ORENSTEIN: Your Honor, that whole week I'm going
to be on vacation in North Carolina.
THE COURT: All right. Well, we'll resolve your

[45]
situation I think before that. You'll be away that whole week?
MR. ORENSTEIN: That's correct, Your Honor.
THE COURT: Yes, we'll resolve that before you leave.
We'll resolve that, whether we'll have a hearing on that,
whether we'll need it. Not a problem. All right. Just
continue with your vacation, all right.
Do we have anything on June 4? Can you all be here on
the 4th, either 11:30 or 3:30?
MR. BERMAN: Your Honor, if I may ask, is that the
first time Mr. Cheris is available, because I think it's in

everyone's interest to reconvene this as quickly as possible.
THE COURT: He's starting a trial. I don't know when he's going to come out. Well, why don't we go ahead and wait for him to get out of trial and then we'll get a time when we can get it.
MR. GRIMM: Your Honor, I'm in trial on June 4th. So, I apologize.
THE COURT: All right. I'll just leave it blank right now, leave it open. Can you all monitor the situation with Mr. Cheris? He's usually pretty good about getting back. In fact, he's excellent about it.
MR. BERMAN: Are you available at all next week, Your Honor, if he is?
THE COURT: Well, I'll make myself available.
MR. BERMAN: Okay.

[46]
THE COURT: I'll make myself available. That's not a problem. Let's hear from Mr. Cheris and if you all can assist me in contacting him, we'll do the same. He's in trial. He's picking a jury right now in Montgomery County. Let's see if we can get a time when he can come.
MR. GRIMM: Thank you, Your Honor.
THE COURT: All right.
MR. ROCHON: Thank you, Your Honor.
THE COURT: All right. Why don't we do that? We're

going to leave it open for the next few days until Mr. Cheris
finishes his trial, and then we would ask the parties to get
with him and call my office and get a time perhaps next week or
the end of this week if he's available. But let's check with
him and we'll have another time when he can come and argue and
make whatever pitch he has to make and then I'll make a
decision on it, all right.
MR. GRIMM: Thank you, Your Honor.
(Proceedings adjourned at 11:30 a.m.)
CERTIFICATE OF REPORTER
This record is certified by the undersigned reporter
to be the official transcript of proceedings in the
above-entitled matter.

Gloria I. Williams
Official Court Reporter

[STAMP]
____Filed ____Entered
___Logged ___Received
SEP 20 2001
At Greenbelt
Clerk U.S. District Court
District Of Maryland
By Deputy

United States District Court
District of Maryland

UNITED STATES OF AMERICA

v.

TAMMY MARIE WILLIAMS

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed on or After November 1, 1987)

Case Number:
AW-00-0137

Defendant's Attorney:
HOWARD RAY CHERIS

Assistant U.S. Attorney:
STUART BERMAN

THE DEFENDANT:

☒ pleaded guilty to count *Fourteen (14) of the Second Superseding Indictment*

☐ pleaded nolo contendere to count(s) _____, which was accepted by the court.

☐ was found guilty on count(s) _____ after a plea of not guilty

Title & Section	*Nature of Offense*	*Date Offense Concluded*	*Count Number(s)*
Title 18, U.S. Code, Section 1957(a)	Money Laundering	January, 2000	14

The defendant is adjudged guilty of the offenses listed above and sentenced as provided in pages 2 through *6* of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

SEPTEMBER 14, 2001
Date of Imposition of Judgment

Defendant's SSN: 579-96-1589
Defendant's Date of Birth: 03/05/1978
Defendant's U.S.M. No.:

Defendant's Residence Address:
715 Taylor Street, N.W.
Washington, D.C. 20011

Defendant's Mailing Address:

Alexander Williams, Jr 9/19/01
ALEXANDER WILLIAMS, JR.
Date

1884 Eagle Court
Severn, Maryland 21144

UNITED STATES
DISTRICT JUDGE

Name of Court Reporter: GLORIA WILLIAMS

[Judgment Page 2 of 6]

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of *Thirty-seven (37)* months.

☒ The court makes the following recommendations to the Bureau of Prisons:
That the defendant participate in any programs such as "Boot Camp" or any other programs determined eligible; and, That the inmate be placed in a facility consistent with her security level that is as close as possible to her family setting.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshall for this district:

☐ at _____ a.m./p.m. on _____
☐ as notified by the United States Marshal.

☒ The defendant shall surrender, at his/her own expense, to the institution designated by the Bureau of Prisons at the date and time specified in a written notice to be sent to the defendant by the United States Marshal. If the defendant does not receive such a written notice, defendant shall surrender to the United States Marshal:

☒ before 2 p.m. on *Monday, October 15, 2001.*

A defendant who fails to report either to the designated institution or to the United States Marshal as directed shall be subject to the penalties of Title 18 U.S.C. §3146. If convicted of an offense while on release, the defendant shall be subject to the penalties set forth in 18 U.S.C. §3147. For violation of a condition of release, the defendant shall be subject to the sanctions set forth in Title 18 U.S.C. §3148. Any bond or property posted may be forfeited and judgment entered against the defendant and the surety in the full amount of the bond.

RETURN

I have executed this judgment as follows:

Defendant delivered _____ to _____ at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

_____
By: DEPUTY U.S. MARSHAL

[Judgment Page 3 of 6]

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for term of *Three (3) Years*.

The defendant shall comply with all of the following conditions:

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

STATUTORY CONDITIONS OF SUPERVISED RELEASE

The defendant shall not commit any federal, state or local crime.

In any felony case, the defendant shall not possess a firearm as defined in 18 U.S.C. §921.

The defendant shall not illegally use or possess a controlled substance.

The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

If this judgment imposes any criminal monetary penalty, including special assessment, fine, or restitution, it shall be a condition of supervised release that the defendant pay any such monetary penalty that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment. The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

STANDARD CONDITIONS OF SUPERVISION

1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
2) The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4) The defendant shall support his or her dependents and meet other family responsibilities;
5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
6) The defendant shall notify the probation officer ten days prior to any change in residence or employment;
7) The defendant shall refrain from excessive use of alcohol;
8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any persons convicted of a felony unless granted permission to do so by the probation officer;
10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11) The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;

12) The defendant shall notify the probation officer within 72 hours of being charged with any offense, including a traffic offense;
13) The defendant shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the court;
14) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

[Judgment Page 4 of 6]

SUPERVISED RELEASE
ADDITIONAL CONDITIONS

1. That the defendant shall satisfactorily participate in a treatment program approved by the probation officer relating to substance and/or alcohol abuse, which may include evaluation, counseling, and testing as deemed necessary by the probation officer;
2. That the defendant shall provide the probation officer with access to any requested financial information;
3. That the defendant shall not incur new credit charges or open additional lines of credit without approval of the probation officer;
4. That the defendant shall pay a special assessment fee in the amount of $100.00.

[Judgment Page 5 of 6]

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	Assessment	*Fine*	*Restitution*
Totals:	$100.00	$	$ N/A

☐ If applicable, restitution amount ordered pursuant to plea agreement. . . . . .$

FINE

The defendant shall pay interest on any fine of more than $2,500, unless the fine is paid in full before the 15th day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☒ The court has determined that the defendant does not have the ability to pay a fine; therefore, a fine is waived.

☐ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case will be entered after such determination.

☐ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

Name of Payee	***Amount of Restitution Ordered***	***Priority Order or Percentage of Payment***

[Judgment Page 6 of 6]

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; and (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

A ☒ A **Special Assessment** Fee in the amount of $ *100.00* in full immediately; or

B ☐ $_____ immediately, balance due (in accordance with C, D, or E); or

C ☐ Not later than _____; or

D ☐ Installments to commence _____ day(s) after the date of this judgment.

E ☐ In _____ (*e.g. equal weekly, monthly, quarterly)* installments of $_____ over a period of _____ year(s) to commence when the defendant is placed on supervised release.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Unless the court expressly orders otherwise, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment through the Bureau of Prisons' Inmate Financial Responsibility Program.

If the entire amount of criminal monetary penalties is not paid prior to the commencement of supervision, the balance shall be paid:

- ☐ in equal monthly installments during the term of supervision; or
- ☐ on a nominal payment schedule of $_____ per month during the term of supervision.

The U.S. probation officer may recommend a modification of the payment schedule depending on the defendant's financial circumstances.

Special instructions regarding the payment of criminal monetary penalties:

- ☐ Joint and Several with:
- ☐ The defendant shall pay the following costs of prosecution and/or court costs:
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

[STAMP]
____Filed ____Entered
___Logged ___Received
SEP 20 2001
At Greenbelt
Clerk U.S. District Court
District Of Maryland
By Deputy

United States District Court
District of Maryland

UNITED STATES OF AMERICA

v.

JAMES TILLMAN

JUDGMENT IN A CRMINAL CASE
(For Offenses Committed on or After November 1, 1987)

Case Number:
AW 00-0137

Defendant's Attorney:
BERNARD S. GRIMM

Assistant U.S. Attorney: STUART A. BERMAN

THE DEFENDANT:

☒ pleaded guilty to counts *1, 4, 6 & 11 of the Second Superseding Indictment*

☐ pleaded nolo contendere to count(s) _____, which was accepted by the court.

☐ was found guilty on count(s) _____ after a plea of not guilty.

Title & Section	*Nature of Offense*	*Date Offense Concluded*	*Count Numbers(s)*
21 U.S.C. Section 846	Conspiracy to Distribute Cocaine and Cocaine Base	March 10, 2000	1
21 U.S.C. Section 841(a)(1)	Possession with Intent to Distribute Cocaine and Cocaine Base	March 10, 2000	4 & 6
18 U.S.C. Section 924(c)	Possession of Firearm in Furtherance of Drug Trafficking Crime	March 10, 2000	11

The defendant is adjudged guilty of the offenses listed above and sentenced as provided in pages 2 through *6* of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Counts *2, 7, 8 & 9 of the Second Superseding Indictment* are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

SEPTEMBER 14, 2001
Date of Imposition of Judgment

Defendant's SSN: 577-15-5896
Defendant's Date of Birth: 6/6/1974
Defendant's U.S.M. No.: 36155-037

Defendant's Residence Address:
1884 Eagle Court
Severn, Maryland 21144

Defendant's Mailing Address:
1884 Eagle Court
Severn, Maryland 21144

Alexander Williams, Jr 9/19/01
ALEXANDER WILLIAMS, JR.
Date
UNITED STATES DISTRICT JUDGE

Name of Court Reporter: GLORIA WILLIAMS

[Judgment Page 2 of 6]

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 262 months on Counts 1, 4 and 6 to run concurrent with one another; and 60 months on Count 11 to run consecutive to Counts 1, 4 and 6. The defendant is entitled to credit for time served commencing March 10, 2000.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the inmate be placed in a facility consistent with his security level that is a close as possible to his family setting; and, That the defendant be placed in a facility that has a drug education program.

☒ The defendant is remanded to the custody of the United States Marshall.

☐ The defendant shall surrender to the United States Marshall for this district:

☐ at _____a.m./p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender, at his/her own expense, to the institution designated by the Bureau of Prisons at the date and time specified in a written notice to be sent to the defendant by the United States Marshal:

☐ before 2 p.m. on _____.

A defendant who fails to report either to the designated institution or to the United States Marshal as directed shall be subject to the penalties of Title 18 U.S.C. § 3146. If convicted of an offense while on release, the defendant shall be subject to the penalties set forth in 18 U.S.C. § 3147. For violation of a condition of release, the defendant shall be subject to the sanctions set forth in Title 18 U.S.C. § 3148. Any bond or property posted may be forfeited and judgment entered against the defendant and the surety in the full amount of the bond.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____, with a certified copy of this judgment.

_____

UNITED STATES MARSHAL

By: _____
DEPUTY U.S. MARSHAL

[Judgment Page 3 of 6]

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of *5 years* on Counts 1, 4, 6 and 11, each to run concurrent with one another.

The defendant shall comply with all of the following conditions:

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

STATUTORY CONDITIONS OF SUPERVISED RELEASE

The defendant shall not commit any federal, state or local crime.

In any felony case, the defendant shall not posses a firearm as defined in 18 U.S.C. § 921.

The defendant shall not illegally use or possess a controlled substance.

The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the

defendant poses a low risk of future substance abuse. (Check, if applicable.)

If this judgment imposes any criminal monetary penalty, including special assessment, fine, or restitution, it shall be a condition of supervised release that the defendant pay any such monetary penalty that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment. The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

STANDARD CONDITIONS OF SUPERVISION

1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
2) The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4) The defendant shall support his or her dependents and meet other family responsibilities;
5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
6) The defendant shall notify the probation officer ten days prior to any change in residence or employment;
7) The defendant shall refrain from excessive use of alcohol;

8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any persons convicted of a felony unless granted permission to do so by the probation officer;
10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11) The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12) The defendant shall notify the probation officer within 72 hours of being charged with any offense, including a traffic offense;
13) The defendant shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the court;
14) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

[Judgment Page 4 of 6]

SUPERVISED RELEASE
ADDITIONAL CONDITIONS

1. That the defendant pay the special assessment fee in the amount of $400.00.

[Judgment Page 5 of 6]

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	Assessment	*Fine*	*Restitution*
Totals:	$400.00	$	$ N/A

☐ If applicable, restitution amount ordered pursuant to plea agreement. . . . . .$

FINE

The defendant shall pay interest on any fine of more than $2,500, unless the fine is paid in full before the 15th day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☒ The court has determined that the defendant does not have the ability to pay a fine; therefore, a fine is waived.

☐ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived.
☐ The interest requirement is modified as follows:

RESTITUTION

☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case will be entered after such determination.

☐ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

Name of Payee	***Amount of Restitution Ordered***	***Priority Order or Percentage of Payment***

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; and (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

A ☒ **A Special Assessment Fee** in the amount of $*400.00* in full immediately; or

B ☐ $_____ immediately, balance due (in accordance with C, D, or E); or

C ☐ Not later than _____; or

D ☐ Installments to commence _____ day(s) after the date of this judgment.

E ☐ In _____ (*e.g. equal weekly, monthly, quarterly)* installments of $_____ over a

period of _____ year(s) to commence when the defendant is placed on supervised release.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Unless the court expressly orders otherwise, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment through the Bureau of Prisons' Inmate Financial Responsibility Program.

If the entire amount of criminal monetary penalties is not paid prior to the commencement of supervision, the balance shall be paid:

☐ in equal monthly installments during the term of supervision; or

☐ on a nominal payment schedule of $_____ per month during the term of supervision.

The U.S. probation officer may recommend a modification of the payment schedule depending on the defendant's financial circumstances.

Special instructions regarding the payment of criminal monetary penalties:

☐ Joint and Several with:
☐ The defendant shall pay the following costs of prosecution and/or court costs:
☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

[STAMP]
____Filed ____Entered
___Logged ___Received
SEP 20 2001
At Greenbelt
Clerk U.S. District Court
District Of Maryland
By Deputy

United States District Court
District of Maryland

UNITED STATES OF AMERICA

v.

JAMERSON DEVOIR TILLMAN

JUDGMENT IN A CRMINAL CASE
(For Offenses Committed on or After November 1, 1987)

Case Number: AW 00-0137

Defendant's Attorney: MARK ROCHON

Assistant U.S. Attorney: STUART A. BERMAN

THE DEFENDANT:

☒ pleaded guilty to counts *1, 3, 5, 10 & 14 of the Second Superseding Indictment*

☐ pleaded nolo contendere to count(s) _____, which was accepted by the court.

☐ was found guilty on count(s) _____ after a plea of not guilty.

Title & Section	*Nature of Offense*	*Date Offense Concluded*	*Count Numbers(s)*
21 U.S.C. Section 846	Conspiracy to Distribute Cocaine and Cocaine Base	March 10, 2000	1
21 U.S.C. Section 841(a)(1)	Possession with Intent to Distribute Cocaine and Cocaine Base	March 10, 2000	3 & 5
18 U.S.C. Section 924(c)	Possession of Firearm in furtherance of Drug Trafficking Crime	March 10, 2000	10
18 U.S.C. Section 1957	Money Laundering	January 2000	14

The defendant is adjudged guilty of the offenses listed above and sentenced as provided in pages 2 through *6* of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Counts *2, 12, & 13 of the Second Superseding Indictment* are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing

address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

SEPTEMBER 14, 2001
Date of Imposition of Judgment

Defendant's SSN: 77-15-5915
Defendant's Date of Birth: 04/06/1976
Defendant's U.S.M. No.: 35154-037

Defendant's Residence Address:
9336 Edmonston Road, #204
Greenbelt, MD 20770

Defendant's Mailing Address:
9336 Edmonston Road, #204
Greenbelt, MD 20770

Alexander Williams, Jr 9/19/01
ALEXANDER WILLIAMS, JR.
Date
UNITED STATES DISTRICT JUDGE

Name of Court Reporter: GLORIA WILLIAMS

[Judgment Page 2 of 6]

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 235 months on Counts 1, 3 and 5 to run concurrent with one another; 60 months on Count 10 to run consecutive to Count 1; and 120 months on Count 14 to run concurrent with Count 1. The defendant is entitled to credit for time served commencing 3/13/2000.

☒ The court makes the following recommendations to the Bureau of Prisons:

If not inconsistent with Bureau of Prisons policy, that the defendant be placed at the same facility as his brother, James Tillman.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshall for this district:

☐ at _____ a.m./p.m. on _____.
☐ as notified by the United States Marshal.

☐ The defendant shall surrender, at his/her own expense, to the institution designated by the Bureau of Prisons at the date and time specified in a written notice to be sent to the defendant by the United States Marshal. If the defendant does not receive such a written notice, defendant shall surrender to the United States Marshal:

☐ before 2 p.m. on _____.

A defendant who fails to report either to the designated institution or to the United States Marshal as directed shall be subject to the penalties of Title 18 U.S.C. §3146. If convicted of an offense while on release, the defendant shall be subject to the penalties set forth in 18 U.S.C. §3147. For violation of a condition of release, the defendant shall be subject to the sanctions set forth in Title 18 U.S.C. §3148. Any bond or property posted may be forfeited and judgment entered against the defendant and the surety in the full amount of the bond.

RETURN

I have executed this judgment as follows:

Defendant delivered _____ to _____ at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

_____
By: DEPUTY U.S. MARSHAL

[Judgment Page 3 of 6]

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years on Counts 1, 3, 5 and 10, each to run concurrent with one another; and 3 years on Count 14 to run concurrent with Count 1.

The defendant shall comply with all of the following conditions:

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

STATUTORY CONDITIONS OF SUPERVISED RELEASE

The defendant shall not commit any federal, state or local crime.

In any felony case, the defendant shall not posses a firearm as defined in 18 U.S.C. § 921.

The defendant shall not illegally use or possess a controlled substance.

The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

If this judgment imposes any criminal monetary penalty, including special assessment, fine, or restitution, it shall be a condition of supervised release that the defendant pay any such monetary penalty that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment. The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

STANDARD CONDITIONS OF SUPERVISION

1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
2) The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4) The defendant shall support his or her dependents and meet other family responsibilities;

5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
6) The defendant shall notify the probation officer ten days prior to any change in residence or employment;
7) The defendant shall refrain from excessive use of alcohol;
8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any persons convicted of a felony unless granted permission to do so by the probation officer;
10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11) The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12) The defendant shall notify the probation officer within 72 hours of being charged with any offense, including a traffic offense;
13) The defendant shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the court;
14) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SUPERVISED RELEASE
ADDITIONAL CONDITIONS

1. That the defendant shall satisfactorily participate in a treatment program or education program relating to substance and/or alcohol abuse, which may include evaluation, counseling, and testing as deemed necessary by the probation officer.

2. That the defendant shall pay the special assessment fee in the amount of $500.00

[Judgment Page 5 of 6]

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	Assessment	*Fine*	*Restitution*
Totals:	$500.00	$	$ N/A

☐ If applicable, restitution amount ordered pursuant to plea agreement. . . . . .$

FINE

The defendant shall pay interest on any fine or more than $2,500, unless the fine is paid in full before the 15th day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☒ The court has determined that the defendant does not have the ability to pay a fine; therefore, a fine is waived.

☐ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived.
☐ The interest requirement is modified as follows:

RESTITUTION

☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case will be entered after such determination.

☐ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

Name of Payee	***Amount of Restitution Ordered***	***Priority Order or Percentage of Payment***

[Judgment Page 6 of 6]

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; and (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

A ☒ A **Special Assessment Fee** in the amount of $*500.00* in full immediately; or
B ☐ $_____ immediately, balance due (in accordance with C, D, or E); or
C ☐ Not later than _____; or
D ☐ Installments to commence _____ day(s) after the date of this judgment.
E ☐ In _____ (*e.g. equal weekly, monthly, quarterly)* installments of $_____ over a period of _____ year(s) to commence when the defendant is placed on supervised release.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Unless the court expressly orders otherwise, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment through the Bureau of Prisons' Inmate Financial Responsibility Program.

If the entire amount of criminal monetary penalties is not paid prior to the commencement of supervision, the balance shall be paid:

☐ in equal monthly installments during the term of supervision; or
☐ on a nominal payment schedule of $_____ per month during the term of supervision.

The U.S. probation officer may recommend a modification of the payment schedule depending on the defendant's financial circumstances.

Special instructions regarding the payment of criminal monetary penalties:

- ☐ Joint and Several with:
- ☐ The defendant shall pay the following costs of prosecution and/or court costs:
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA, *Plaintiff-Appellee,* v.
TAMMY MARIE WILLIAMS, *Defendant-Appellant.*
No. 01-4770

UNITED STATES OF AMERICA, *Plaintiff-Appellee,*
v. JAMES TILLMAN, *Defendant-Appellant.*
No. 01-4778

UNITED STATES OF AMERICA, *Plaintiff-Appellee*
v. JAMERSON DEVOIR TILLMAN, *Defendant-Appellant.*
No. 01-4779

Appeals from the United States District Court for the District of Maryland, at Greenbelt.

Alexander Williams, Jr., District Judge.
(CR-00-137-AW)

Submitted: June 28, 2002

Decided: July 22, 2002

Before MICHAEL and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Linda Theresa Spradlin-Dahn, Annapolis, Maryland; Peter M. Todaro, Michael J. Ciatti, James T. Phalen, Jeffrey T. Tao, KING & SPALDING, Washington, D.C.; Howard R.

Cheris, Gaithersburg, Maryland, for Appellants. Thomas M. DiBiagio, United States Attorney, Stuart A. Berman, Jonathan M. Mastrangelo, Assistant United States Attorneys, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

In these three appeals, Tammy Marie Williams, James Tillman, and Jamerson D. Tillman (collectively Defendants") seek review of the district court's denial of their motions for a hearing pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978), to challenge the validity of certain search warrant affidavits and the denial of their motions to suppress evidence discovered as a result of the execution of the challenged warrants. Williams also appeals from the 37-month sentence she received for money laundering, arguing that the district court erred in enhancing her sentence by five levels on its finding that she knew that the money was the proceeds of drug trafficking activities. Finding no error, we affirm.

The Defendants challenge a number of statements in the search warrant affidavits, alleging that they are misrepresentations of facts intended to mislead as to the existence of probable cause. To warrant a *Franks* hearing, a defendant must "make[ ] a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and . . . the allegedly false statement is necessary to the finding of probable cause." *Franks*, 438 U.S. at 155-56. Addressing each of the statements, the district court found no intentional misrepresentations. We find no

clear error by the district court in making this determination. *See United States v. Photogrammetric Data Servs., Inc.*, 259 F.3d 229, 237 (4th Cir. 2001) (providing standard), *cert. denied*, 122 S. Ct. 1295 (2002); *see also United States v. Pace*, 898 F.2d 1218, 1227 (7th Cir. 1990) (holding that a defendant's mere denial of statement in affidavit does not warrant *Franks* hearing); *United States v. Lyon*, 567 F.2d 777, 782 (8th Cir. 1977) (holding that ambiguous statement insufficient to establish intentional misrepresentation). Further, we find that none of the alleged misrepresentations were "necessary to the finding of probable cause." *Franks*, 438 U.S. at 155-56. Accordingly, we affirm the district court's denial of a hearing pursuant to *Franks*.

The Defendants next assert that there was an insufficient nexus between the Tillman brothers' drug dealing activities and their residences to justify the searches of their homes. They assert that the information given to the officers was that the Tillmans were known to store and deal drugs from their vehicles, not their homes. "[T]he nexus between the place to be searched and the items to be seized may be established by the nature of the item and the normal inferences of where one would likely keep such evidence." *United States v. Anderson*, 851 F.2d 727, 729 (4th Cir. 1988). "[G]reat deference" is given to the judge who issued the warrant. *United States v. Blackwood*, 913 F.2d 139, 142 (4th Cir. 1990).

Here, the facts presented in the search warrant affidavits supported the conclusion that the Tillmans were involved in a large-scale drug distribution operation. The officers verified information received in a tip and linked the brothers to two residences. During surveillance of the brothers, officers witnessed the Tillmans engage in a conversation with an individual in a Nissan Altima. The Tillmans then drove to the residence of Jamerson Tillman, and, after a brief stop there, again met with the individual in

the Nissan. A stop of the Nissan resulted in 1,292 grams of cocaine being recovered from the scene.

In the search warrant affidavits, the officer stated that, based on his training and experience, he believed that contraband and evidence of a crime would be found in the Tillmans' residences. We find that the judges issuing the warrants did not err in finding that probable cause existed. *See Illinois v. Gates*, 462 U.S. 213, 231-32 (1983) (holding that officers may make deductions, assess probabilities, and draw inferences based on their training and experience); *United States v. Williams*, 974 F.2d 480, 481-82 (4th Cir. 1982) (upholding warrant to search motel room based on affidavit evidence that the occupant of the room was an active drug dealer); *Anderson*, 851 F.2d at 729 (finding probable cause if it may be reasonably inferred from the circumstances that contraband or evidence of a crime will be found). Accordingly, we affirm the district court's denial of the motions to suppress evidence. Lastly, Williams challenges the five-level enhancement to her sentence based on the finding that, at the time of her money laundering offense, she knew that the source of the laundered funds was drug proceeds. *See U.S. Sentencing Guidelines Manual* § 2S1.2(b)(1)(A)(2000). She asserts that the district court erred in relying upon evidence discovered during the March 2000, search of the residence she shared with Jamerson Tillman to determine her knowledge as of December 1999.

In her plea agreement, Williams admitted that she knew that the money she used to purchase a home with Jamerson Tillman was from illegal activities; however she disputes that she knew that it was from drug trafficking. In determining Williams' knowledge, the district court relied upon the relationship between Jamerson Tillman and Williams, evidence that Tillman's drug distribution activity predated December 1999, the purchase of the home, the fact that the couple's expenses exceeded Williams' modest income, and evidence of the pervasiveness of drugs and

money throughout the apartment that Williams shared with Jamerson Tillman. The court found that Williams clearly had knowledge of—or was willfully blind to—the source of the funds. We find no clear error in the district court's finding. *See United States v. Garnett*, 243 F.3d 824, 828 (4th Cir. 2001) (providing standard).

In conclusion, we affirm the district court's denial of the motions for a *Franks* hearing and the motions to suppress evidence and therefore affirm the Defendants' convictions. We also affirm Williams' sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
August 26, 2002

No. 01-4770
CR-00-137-AW

UNITED STATES OF AMERICA
Plaintiff – Appellee

v.

TAMMY MARIE WILLIAMS
Defendant – Appellant

No. 01-4778
CR-00-137-AW

UNITD STATES OF AMERICA
Plaintiff – Appellee

v.

JAMES TILLMAN
Defendant – Apellant

No. 01-4779
CR-00-137-AW

UNITED STATES OF AMERICA
Plaintiff – Appellee

v.

JAMERSON DEVOIR TILLMAN
Defendant – Appellant

On Petition for Rehearing and Rehearing En Banc

The appellants' petition for rehearing an rehearing en Banc was submitted to this Court. As no member of this Court or the panel requested a poll on the petition for rehearing en banc, and

As the panel considered the petition for rehearing and is of the opinion that it should be denied,

IT IS ORDERED that the petition for rehearing and rehearing en banc is denied.

For the Court,

/s/ Patricia S. Connor
Clerk

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

RETURN

I received the attached Search Warrant on 03/10/00, and have executed it as follows.
On 03/10/00, at 0805 hrs

The premises described in the Warrant was searched. A copy of the Warrant and a copy of the inventory taken was left with the *residence*.

The following is an inventory of property taken pursuant to the Warrant:

(1) Suspected cocaine (hydrochloride)
(2) Suspected crack cocaine
(3) Desert Eagle 44 Magnum handgun
(4) Ruger .45 caliber
(5) Taurus 9mm
(6) Topper model 158 sawed off shotgun
(7) SKS assault rifle
(8) (3) gun cases
(9) assorted gun magazines
(10) assorted ammunition
(11) assorted documents
(12) U.S. Currency totaling $506,698.00
(13) CDS paraphernalia (bags)
(14) Pyrex bowls containing suspected cocaine residue

The inventory was made in the presence of *Det. Cavanaugh #1484* and *Det. Scarlata #1931*.

I swear that this inventory is a true and detailed account of all the property taken by me on the Warrant.

/s/ Black #996

Det. Black #1996
(Investigating officer)

Subscribed and sworn to and returned before me this 15th day of March, 2000.

/s/ [Illegible]
(Judge)

Mr. Clerk.

Please file pursuant to Maryland Rule 4-601.

/s/ [Illegible]
(Judge)

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

SEARCH WARRANT

TO DET. BLACK #1996, NARCOTICS ENFORCEMENT DIVISION, PRINCE GEORGE'S COUNTY POLICE DEPARTMENT.

Whereas it appears to me, the subscriber, *Herman C. Dawson*, a Judge of the Circuit Court for Prince George's County, Maryland, by the written affidavit of the applicant herein, ***DET. BLACK #1996, NARCOTICS ENFORCEMENT DIVISION, PRINCE GEORGE'S COUNTY POLICE DEPARTMENT*** a copy of which is attached hereto and made a part hereof, that there is probable cause, the basis of which is set forth in said Affidavit, to believe that certain property subject to seizure under the laws of this State and more particularly in violation of ***ARTICLE 27, SECTION 286,*** Annotated Code of Maryland, situated or located at:

9336 EDMONSTON ROAD #204, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND. THE SAID PREMISE IS DESCRIBED AS A GARDEN STYLE APARTMENT BUILDING, CONSTRUCTED OF TAN BRICKS. THE NUMBERS "9336" ARE WHITE IN COLOR WITH A GREEN BACKGROUND AND ARE AFFIXED ABOVE THE ENTRANCE OF THE BUILDING. THE TARGET DOOR IS TAN IN COLOR, HAS A SILVER KNOCKER. THE NUMBER "204" ARE WHITE IN COLOR ON A BROWN BACKGROUND AND ARE ENGRAVED IN THE KNOCKER.

Your are therefore commanded, with the necessary and proper assistants, to search the said premises located at ***9336 EDMONSTON ROAD #204, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND*** for the property specified, to wit:

Cocaine, and any and all controlled dangerous substances, in whatever form, condition or however packaged, and to seize such paraphernalia that is used in the administration, preparation, and distribution or in conjunction with said illegal activities. To seize any books, records, firearms, ammunition and documents relating to the acquisition, possession or distribution of said controlled dangerous substances. To open any and all safes, locked boxes and receptacles and to seize contents which pertain to the said illegal operation. To view all non-commercially produced video tapes and to review all answering machine tapes for evidence of said illegal operation. To seize any records, documents or evidence to prove possession or ownership of the premises for which this warrant is sought, and to search any and all persons found to be involved in said illegal activities. To seize any electronic message receiving devices, such as telephonic pagers, and or cellular telephones and to review and record all stored data which may pertain to said illegal operation.

And if property be found there to seize it and to seize any property found liable to seizure under the laws of this State leaving a copy of this Warrant and a written inventory of the property taken, and return this Warrant to me, the subscriber, or in my absence to any Judge of this Circuit Court within ten days from the date of the execution of this Warrant together with a copy of the written inventory of the property taken, as required by law.

Here fail not at your peril and have you then and there this Warrant.

Given under my hand this 10 day of March, 2000.

/s/ [Illegible]
(Judge)

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

APPLICATION FOR SEARCH WARRANT

By DET. BLACK #1996, NARCOTICS ENFORCEMENT DIVISION, PRINCE GEORGE'S COUNTY POLICE DEPARTMENT

The affiant hereby makes application to *Herman C. Dawson*, a Judge of the Circuit Court for Prince George's County, Maryland, for a search warrant on the grounds that there is probable cause, the basis of which is set forth in the following Affidavit which is attached hereto and made a part hereof, to believe that there is property subject to seizure under the laws of this State and more particularly in violation of ***ARTICLE 27, SECTION 286,*** Annotated Code of Maryland, situated or located at:

9336 EDMONSTON ROAD #204, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND. THE SAID PREMISE IS DESCRIBED AS A GARDEN STYLE APARTMENT BUILDING, CONSTRUCTED OF TAN BRICKS. THE NUMBERS "9336" ARE WHITE IN COLOR WITH A GREEN BACKGROUND AND ARE AFFIXED ABOVE THE ENTRANCE OF THE BUILDING. THE TARGET DOOR IS TAN IN COLOR, HAS A SILVER KNOCKER. THE NUMBER "204" ARE WHITE IN COLOR ON A BROWN BACKGROUND AND ARE ENGRAVED IN THE KNOCKER.

In support of said Application for Search Warrant affiant being duly sworn deposes and says:

That your affiant, Detective Black #1996 is a Police Officer with the Prince George's County Police Department,

Maryland, and has been employed by said department for a period of six (6) years. That your affiant is currently assigned to the Major Narcotics Section as a narcotics investigator. That your affiant has received training in general law enforcement and in narcotic law enforcement from the Prince George's County Police Academy. That your affiant has also received additional narcotics training from the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network class on narcotics and narcotics interdiction. That your affiant has also received Advanced Narcotics training given by the Major Narcotics Section of the Prince George's County Police Department. That your affiant has also received training from the United States Drug Enforcement Administration. That your affiant has conducted investigations for violations of the Maryland Controlled Dangerous Substance Act and these investigations have resulted in the arrests of persons for violations of the Maryland Controlled Dangerous Substance Act. That your affiant's testimony in said arrests has been accepted by the courts of the State of Maryland and have resulted in the convictions of said persons for violations of the Controlled Dangerous Substance Act of the State of Maryland.

During the month of January, 2000, your affiant and Detective Mills #1971 were contacted by a concerned citizen. The concerned citizen furnished information to your affiant, Detective Mills #1971 and to other members of the Narcotics Enforcement Division regarding criminal activity. Your affiant has proven the information to be completely true through various investigative techniques. The concerned citizen has not given your affiant any information regarding criminal activity proven to be false. The said confidential source of information related to your affiant that it knew of a black male only known to it as Tim and his brother (brothers name unknown at this time), who were

involved in the illegal distribution of controlled dangerous substances, especially cocaine. The concerned citizen also related to your affiant that the males, were using a silver Cadillac STS and a burgundy Chevrolet Impala to store quantities of controlled dangerous substances prior to sale. The concerned citizen further related to your affiant that it has been inside the said vehicles, in the past, and has observed the males distribute controlled dangerous substances, to include cocaine, while inside the said vehicles. The concerned citizen further related to your affiant that it has seen quantities of controlled dangerous substances, including cocaine, inside the said vehicles. The concerned citizen is very familiar with the appearance of controlled dangerous substances, as the concerned citizen was at one time a distributor of controlled dangerous substances, especially cocaine.

On February 17, 2000 approximately 0739 hrs, your affiant and Detective Mills #1971 were conducting surveillance at Route 450 and Coopers Lane, Landover Hills, Prince George's County, Maryland. Your affiant observed an unknown black male driving a grey Cadillac STS bearing Maryland registration 195-BGJ, park the said vehicle and enter into the Fairlane Bowling Alley. On February 17, 2000 approximately 1939 hours, your affiant observed an unknown black male driving a burgundy Chevrolet bearing Maryland registration 183-BEB, park the said vehicle and enter into the Fairlane Bowling Alley. Your affiant while working in an undercover capacity overheard Tim, his brother and an unknown black male talking to one another about how to make a profit out of distributing two keys (street terminology for kilograms of a controlled dangerous substance) of cocaine and 62 grams of cocaine.

Utilizing various investigative techniques, Maryland Motor Vehicle Administration (MVA), National Crime Information Center (NCIC) and the Prince George's County

Records your affiant has learned that Tim's true name is James Tillman and his brother has been identified as Jamerson Devoir Tillman. Your affiant has also learned the burgundy Chevrolet Impala bearing Maryland registration 183-BEB is register to Jamerson Devoir Tillman of **9336 EDMONSTON ROAD #204, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND**. During this investigation your affiant has observed the burgundy Chevrolet Impala bearing Maryland registration 183-BEB park at the said location of **9336 EDMONSTON ROAD, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND.**

On March 9, 2000 your affiant and other members of the Narcotic Enforcement Division were conducted surveillance in the area of Rte 450 and Coppers Lane, Landover Hills, Prince George's County, Maryland. Your affiant observed an unknown black male driving a black Nissan Altima bearing DC registration AQ-4018 meet with James and Jamerson at the said address. A short time later, the male driving the black Nissan Altima bearing DC registration AQ-4018 left the area. Your affiant and the other members of the Narcotic Enforcement Division maintained surveillance on James and Jamerson.

At approximately 2215 hrs, James Tillman was observed leaving the area driving the Cadillac STS bearing Maryland registration 195-BGJ. Jamerson Tillman was observed driving away from the area in a burgundy Chevrolet Impala bearing Maryland registration 183-BEB. Both vehicles and its' drivers were followed to **9336 EDMONSTON ROAD, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND**. Moments later both James and Jamerson exited the said vehicles and entered into **9336 EDMONSTON ROAD, #204, GREENDELT, PRINCE GEORGE'S MARYLAND**. Your affiant and the other members of the Narcotic Enforcement Division then began

surveillance on **9336 EDMONSTON ROAD, #204, GREEBELT, PRINCE GEORGE'S MARYLAND**. A short time later, James and Jamerson were seen exiting **9336 EDMONSTON ROAD, #204, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND** and both males got into the grey Cadillac STS bearing Maryland registration 195-BGJ. With James driving the grey Cadillac STS bearing Maryland registration 195-BGJ and Jamerson as the front seat passenger, the vehicle was followed to 4713 67th Avenue, Landover Hills, Prince George's County, Maryland. James and Jamerson met once again with the unknown male driving the black Nissan Altima bearing AQ-4018. The unknown male then exited the Nissan Altima and approached the Cadillac STS. Detective Scarlata #1931, then advised that he observed the male from the Nissan give an unknown package to the front seat passenger of the Cadillac. Detective Scarlata #1931, also advised that the passenger in the Cadillac handed the unknown male an unknown package. Uniformed officer were then asked to stop and identify the unknown male in the Nissan Altima. As uniformed officers approached the male began to accelerate and fled the area in the Nissan Altima. The male then drove the Nissan Altima to Gallatin Street and 70th Place, Landover Hills, Prince George's County, Maryland. The driver and the front seat passenger then exited from the Nissan Altima and fled on foot. Recovered from the scene was 1,262 grams of suspected Cocaine Hydrochloride. Your affiant performed a preliminary field test on the suspected Cocaine using the Ferguson Company test reagent for Cocaine and the test showed a positive reaction for Cocaine. The estimated street value of recovered suspected Cocaine Hydrochloride is $252,800.

Your affiant knows from training and experience that traffickers of controlled dangerous substances maintain records of the various illegal payments received and

anticipated, and that such records are maintained in their residences. The reason for this belief is that the drug dealer must maintain records in order to know the current status of the various illegal transactions, the amount of profit from them, and the expenses incurred incidental to the collection and distribution process. Above all the drug dealer must protect itself from false claims by those with whom he/she is associated with in the illicit business. Since the activity by its very nature is clandestine and involves multiple complex financial transactions, the possibility of error is considerable given the number of the various transactions. It is highly improbable that any individual could keep track of the various transactions without the aid of records.

While it is true that your affiant does not have exact knowledge of the specific documents having evidentiary value, the existence of such documents can be inferred from the very nature and complexity of the illicit business.

Your affiant knows through training, knowledge end experience that persons involved in the distribution of controlled dangerous substances commonly carry or possess firearms and other weapons and ammunition. That these firearms/weapons and ammunition are commonly used for the acts of violence as a result of involvement into the distribution and possession of controlled dangerous substances.

Your affiant knows through training, knowledge and experience that persons involved in the distribution of controlled dangerous substances commonly use electronic message devices, such as telephonic pagers and cellular telephones. That these electronic message devices are used to transportation, sale and distribution of controlled dangerous substances or other such documents which will contain identifying data on the co-conspirators. The aforementioned items are kept in locations that are

considered safe by the drug traffickers such as safety deposit boxes, residence, vehicles and on their person, where they have ready access to them. Your affiant knows that drug traffickers often have several residences decreasing the likelihood of detection by law enforcement. Your affiant knows through training and experience and due to advancement in technology that persons involved in the illicit distribution of controlled dangerous substances may be utilizing electronic equipment to include computers, computer modems, discs, tapes, computer software, and/or facsimile machines to facilitate the drug trade by arranging for transportation, distribution, ordering and/or purchasing illegal controlled dangerous substances. In addition, law enforcement personnel require the training manuals and other related manuals used in order to retrieve any information that may be stored on the various electronic equipment. While it is true that your affiant does not have exact knowledge of the specific documents having evidentiary value which are being concealed, the existence of such documents can be inferred from the very nature and complexity of the financial scheme as aforesaid and from the fact that persons involved in such schemes have regularly been found to utilize such records.

Your affiant, based on training and experience knows that drug traffickers frequently attempt to hide personal assets by placing them in other person's names. This conceals the assets from detection by Law Enforcement Agencies and avoids payment of taxes on income used to purchase these assets. That even though these assets are in other person's names, the drug dealers continue to use these assets and exercise dominion and control over them.

maintain the accessibility of the persons involved in the distribution of controlled dangerous substances.

Your affiant knows through training and experience that drug traffickers often use their residence to store and process quantities of controlled dangerous substances prior to sale.

Based on the merits of this affidavit, your affiant knows that violation of the Controlled Dangerous Substance Act of the State of Maryland are occurring at the said address of **9336 EDMONSTON ROAD #1204, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND** by the Jamerson Tillman. Your affiant prays a search and seizure warrant be issued for the said residence. Wherefore your affiant hereby makes application and prays that a Search Warrant be issued authorizing him, with necessary and proper assistants, to search the said premises located at:

9336 EDMONSTON ROAD #2O4, GREENBELT, PRINCE GEORGE'S COUNTY, MARYLAND. THE SAID PREMISE IS DESCRIBED AS A GARDEN STYLE APARTMENT BUILDING, CONSTRUCTED OF TAN BRICKS. THE NUMBERS "9336" ARE WHITE IN COLOR WITH A GREEN BACKGROUND AND ARE AFFIXED ABOVE THE ENTRANCE OF THE BUILDING. THE TARGET DOOR IS TAN IN COLOR, HAS A SILVER KNOCKER. THE NUMBER "204" ARE WHITE IN COLOR ON A BROWN BACKGROUND AND ARE ENGRAVED IN THE KNOCKER.

for the property specified, to wit:

Cocaine, and any and all controlled dangerous substances, in whatever form, condition or however packaged, and to seize such paraphernalia that is used in the administration, preparation, and distribution or in conjunction with said illegal activities. To seize any books, records, firearms, ammunition and documents relating to the acquisition,

possession or distribution of said controlled dangerous substances. To open any and all safes, locked boxes and receptacles and to seize contents which pertain to the said illegal operation. To view all non-commercially produced video tapes and to review all answering machine tapes for evidence of said illegal operation. To seize any records, documents or evidence to prove possession or ownership of the premises for which this warrant is sought, and to search any and all persons found to he involved in said illegal activities. To seize any electronic message receiving devices, such as telephonic pagers, And or cellular telephones and to review and record all stored data which may pertain to said illegal operation.

And if property be found there to seize it and to seize any property found liable to seizure under the laws of this State leaving a copy of this Warrant and a written inventory of the property taken, and return this Warrant to me, the subscriber, or in my absence to any Judge of this Circuit Court within ten clays from the date of the execution of this Warrant together with a copy of the written inventory of the property taken, as required by law.

(Signature of affiant)

DETECTIVE BLACK #1996,

PRINCE GEORGE'S COUNTY POLICE DEPARTMENT

Reviewing Supervisor /s/ Sgt D Stiner 1240

Reviewed for legal sufficiency by /s/ ASA David Whitacre via fax

Subscribed and sworn to before me this 10 day of March, 2000.

/s/ [Illegible]

JUDGE

ATTACHMENT B

IN THE DISTRICT COURT OF MARYLAND,
DISTRICT 5

RETURN

I received the attached Search Warrant on 03/10/00, and have executed it as follows.
On 03/10/00, at 1056 hrs.

The premises described in the Warrant was search. A copy of the Warrant and inventory taken from the premises was left with *the residence.*

The following is an inventory of property taken pursuant to the Warrant:

(1) Suspected cocaine (hydrochloride)
(2) Suspected crack cocaine
(3) Megastar 10, 10 mm
(4) (1) gun magazine
(5) Winchester 10 mm
(6) assorted ammunition
(7) assorted documents
(8) U.S. Currency totaling $10,715.00

The inventory was made in the presence of *Det. Meterko #2185* and *Det. Davey #2058.*

I swear that this inventory is a true and detailed account of all the property taken by me on the Warrant.

/s/ Black #996
Det. Black #1996
(Investigating officer)

Subscribed and sworn to and returned before me this 15th day of March, 2000.

/s [/Illegible]
(Judge)

Mr. Clerk.

Please file pursuant to Maryland Rule 4-601.

/s/ [Illegible]
(Judge)

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

IN THE DISTRICT COURT OF MARYLAND, DISTRICT 5

SEARCH WARRANT

TO DETECTIVE BLACK #1996, NARCOTICS ENFORCEMENT DIVISION,PRINCE GEORGE'S COUNTY POLICE DEPARTMENT.

Whereas it appears to me, the subscriber, *Thurman H. Rhodes,* a Judge of the District Court of Maryland, District 5, by the written affidavit of the applicant herein, ***DETECTIVE BLACK #1996, MAJOR NARCOTICS SECTION, PRINCE GEORGE'S COUNTY POLICE DEPARTMENT*** a copy of which is attached hereto and made a part hereof, that there is probable cause, the basis of which is set forth in said Affidavit, to believe that certain property subject to seizure under the laws of this State and more particularly in violation of ***ARTICLE 27, SECTION 286,*** Annotated Code of Maryland, situated or located at:

1884 EAGLE COURT, SEVERN, ANNE ARUNDEL COUNTY, MARYLAND. THE SAID PREMISE IS DESCRIBED AS A TOWN HOUSE, CONSTRUCTED OF RED BRICK. THE SAID PREMISE HAS A WHITE STORM DOOR. THE SHUTTERS AROUND THE WINDOWS ARE RED IN COLOR. THE NUMBERS "1884" ARE BLACK IN COLOR AND APPEAR ABOVE THE ENTRANCE OF THE RESIDENCE.

You are therefore commanded, with the necessary and property assistants, to search the said premise located at ***1884 EAGLE COURT, SEVERN, ANNE ARUNDEL COUNTY, MARYLAND*** for the property specified, to wit:

1) To seize any books, records, and documents relating to the acquisition, possession or distribution of said controlled dangerous substances.

2) To open any and all safes, locked boxes and receptacles and to seize all contents which pertain to the said illegal activities.

3) Indicia of occupancy, residency, rental, and/or ownership of the premises described herein, including, but not limited to, utility and telephone bills, canceled enveloped, rental, purchase or lease agreements, and keys; and

4) To search any and all persons found to be involved in said illegal activities.

5) To view all non-commercially produced video tapes.

6) To seize electronic equipment, such as computers, facsimile machines, digital pagers and cellular telephones, answering machines, and related manuals used to generate, record and/or store the information described in this exhibit. Additionally, computer software, tapes and discs, audio tapes, and the contents therein, containing the information generated by the aforementioned electronic equipment and used in the aforementioned violations relating to the transportation, distribution, ordering and purchasing of controlled dangerous substances, especially marijuana;

7) To seize all appointment books, diaries, calendars, financial records, work schedules, computer records, or other documents that detail the aforementioned violations or individuals involved in the aforementioned violations.

8) To seize all financial documents that are related to the placement of monies used in the aforementioned violations;

9) To seize photographs, including still photos, negatives, video tapes, films, undeveloped film and the contents therein, slides, in particular photographs of co-conspirators, of assets and/or controlled dangerous substances;

10) United States Currency, precious metals, jewelry, and financial instruments, including stocks and bonds;

11) To seize any and all firearms.

And if property to be found there to seize it and to seize any property found liable to seizure under the laws of this State leaving a copy of this Warrant and a written inventory of the property taken, and return this Warrant to me, the subscriber, or in my absence to any Judge of this Circuit Court/ District Court within ten days from the date of the execution of this Warrant together with a copy of the written inventory of the property taken, as required by law.

Here fail not at your peril and have you then and there this Warrant.

Given under my hand this 10 day of March, 2000.

/s/ [Illegible]
JUDGE

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

IN THE DISTRICT COURT OF MARYLAND, DISTRICT 5

APPLICATION FOR SEARCH WARRANT

By DETECTIVE BLACK #1996, NARCOTICS ENFORCEMENT DIVISION, PRINCE GEORGES COUNTY POLICE DEPARTMENT

The affiant hereby makes application to _____, a Judge of the Circuit Court for Prince George's County, Maryland/District Court of Maryland, District 5, for a search warrant on the grounds that there is probable cause, the basis of which is set forth in the following Affidavit which is attached hereto and made a part hereof, to believe that there is property subject to seizure under the laws of this State and more particularly in violation of ***ARTICLE 27, SECTION 286*** Annotated Code of Maryland, situated or located at:

1884 EAGLE COURT, SEVERN, ANNE ARUNDEL COUNTY, MARYLAND. THE SAID PREMISE IS DESCRIBED AS A TOWN HOUSE, CONSTRUCTED OF RED BRICK. THE SAID PREMISE HAS A WHITE STORM DOOR. THE SHUTTERS AROUND THE WINDOWS ARE RED IN COLOR. THE NUMBER "1884" ARE BLACK IN COLOR AND APPEAR ABOVE THE ENTRACE OF THE RESIDENCE.

In support of said Application for Search Warrant Affiant being duly sworn deposes and says:

That your affiant, Detective Black #1996 is a Police Officer with the Prince George's County Police Department,

Maryland, and has been employed by said department for a period of over six (6) years. That your affiant is currently assigned to the Major Narcotics Section as a narcotics investigator. That your affiant has received training in general law enforcement and in narcotic law enforcement from the Prince George's County Police Academy. That your affiant has also received additional narcotics training from the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network class on narcotics and narcotics interdiction. That your affiant has also received Advanced Narcotics training given by the Major Narcotics Section of the Prince George's County Police Department. That your affiant has also received training from the United States Drug Enforcement Administration. That your affiant has conducted investigations for violations of the Maryland Controlled Dangerous Substance Act and these investigations have resulted in the arrests of persons for violation of the Maryland Controlled Dangerous Substance Act. That your affiant's testimony in said arrests has been accepted by the courts of the State of Maryland and have resulted in the convictions of said persons for violations of the Controlled Dangerous Substance Act of the State of Maryland.

During the month of January, 2000, your affiant and Detective Mills #1971 were contacted by a concerned citizen. The concerned citizen furnished information to your affiant, Detective Mills #1971 and to other members of the Narcotics Enforcement Division regarding criminal activity. Your affiant has proven the information to be completely true through various investigative techniques. The concerned citizen has not given your affiant any information regarding criminal activity proven to be false. The said confidential source of information related to your affiant that it knew of a black male only known to it as Tim and his brother (brothers name unknown at this time), who were

involved in the illegal distribution of controlled dangerous substances, especially cocaine. The concerned citizen also related to your affiant that the males, were using a silver Cadillac STS and a burgundy Chevrolet Impala to store quantities of controlled dangerous substances prior to sale. The concerned citizen further related to your affiant that it has been inside the said vehicles, in the past, and has observed the males distribute controlled dangerous substances, to include cocaine, while inside the said vehicles. The concerned citizen further related to your affiant that it has seen quantities of controlled dangerous substances, including cocaine, inside the said vehicles. The concerned citizen is very familiar with the appearance of controlled dangerous substances, as the concerned citizen was at one time a distributer of controlled dangerous substances, especially cocaine.

On February 17, 2000 approximately 0739 hrs, your affiant and Detective Mills #1971 were conducting surveillance at Route 450 and Coopers Lane, Landover Hills, Prince George's County, Maryland. Your affiant observed an unknown male driving a grey Cadillac STS bearing Maryland registration 195-BGJ, park the said vehicle and enter into the Fairlane Bowling Alley. On February 17, 2000 approximately 1939 hrs, your affiant observed an unknown black male driving a burgundy Chevrolet bearing Maryland registration 183-BEB, park the said vehicle and enter into the Fairlane Bowling Alley. Your affiant while working in an undercover capacity overheard Tim, his brother, and an unknown black male talking to one another about how to make a profit out of distributing two keys (street terminology for kilograms of a controlled dangerous substance) of cocaine and 62 grams of cocaine.

Utilizing various investigative techniques, Maryland Motor Vehicle Administration (MVA), National Crime

Information Center (NCIC) and the Prince George's County Records your affiant has learned that Tim's true name is James Tillman and his brother has been identified as Jamerson Devoir Tillman. Your affiant has also learned the grey Cadillace STS bearing Maryland registration 195-BGJ is register to NDIA Shantell Williams of **1884 EAGLE COURT, SEVERN, ANNE ARUNDEL COUNTY, MARYLAND.** Your affiant has also observed a 1994 Toyota Supra bearing Maryland registration 499-BBR registered to James Tillman of **1884 EAGLE COURT, SEVERN, ANNE ARUNDEL COUNTY, MARYLAND** parked in front of the said address. During this investigation, your affiant has seen James Tillman enter into the said residence of **1884 EAGLE COURT, SEVERN, ANNE ARUNDEL COUNTY, MARYLAND.**

On March 9, 2000, your affiant and other members of the Narcotic Enforcement Division were conducted surveillance in the area of Rte 450 and Coppers Lane, Landover Hills, Prince George's County, Maryland. Your affiant observed an unknown black male driving a black Nissan Altima bearing DC registration AQ-4018 meet with James and Jamerson at the said address. A short time later, the male driving the black Nissan Altima bearing DC registration AQ-4018 left the area. Your affiant and the other members of the Narcotic Enforcement Division maintained surveillance on Tim and his brother. At approximately 2215 hrs, James Tillman was observed leaving the area driving the Cadillac STS bearing Maryland registration 195-BGJ. Jamerson Tillman was observed driving away from the area in a burgundy Chevrolet Impala bearing Maryland registration 183-BEB. Both vehicles and its' drivers were followed to 9336 Edmonston Road, Greenbelt, Prince George's County, Maryland. Moments later, both James and Jamerson exited the said vehicles and entered into 9336 Edmonston Road, #204, Greenbelt, Prince George's,

Maryland. Your affiant and the other members of the Narcotic Enforcement Division then began surveillance on 9336 Edmonston Road, #204, Greenbelt, Prince George's Maryland. A short time later, James and Jamerson were seen exiting 9336 Edmonston Road, #204, Greenbelt, Prince George's County, Maryland and both males got into the grey Cadillac STS bearing Maryland registration 195-BGJ. With James driving the grey Cadillac STS bearing Maryland registration 195-BGJ and Jamerson as the front seat passenger, the vehicle was followed to 4713 67th Avenue, Landover Hills, Prince George's County, Maryland. James and Jamerson met once again with the unknown male driving the black Nissan Altima bearing AQ-4018. The unknown male then exited the Nissan Altima and approached the Cadillac STS. Detective Scarlata #1931, then advised that the observed the male from the Nissan give an unknown package to the front seat passenger of the Cadillac. Detective Scarlata #1931, also advised that the passenger in the Cadillac handed the unknown male an unknown package. Uniformed officer were then asked to stop and identify the unknown male in the Nissan Altima. As uniformed officers approached the male began to accelerate and fled the area in the Nissan Altima. The male then drove the Nissan Altima to Gallatin Street and 70th Place, Landover Hills, Prince George's County, Maryland. The driver and the front seat passenger exited from the Nissan Altima and fled on foot. Recovered from the scene was 1,262 grams of suspected Hydrochloride. Your affiant performed a preliminary field test on the suspected Cocaine using the Ferguson Company test reagent for Cocaine and the test showed a positive reaction for Cocaine. The estimated street value of recovered suspected Hydrochloride is $252,800.

That based on your affiant's investigative training and experience, your affiant knows that persons involved in the illegal distribution of controlled dangerous substances do

keep and maintain records of their various activities. The reason for this belief is that drug traffickers must maintain records in order to know the current status of the various illegal transactions, the amount of profits from them and the expenses incurred incidental to the collection and distribution process. Above all, drug traffickers must protect themselves from false claims by those with whom they associate in the criminal venture. Since the activity is by its very nature clandestine and involves multiple complex financial transactions, the possibility of error and mistake is considerable due to the number, complexity and frequency of the various transactions without the aid of records. Moreover, experience in these types of cases repeatedly established that persons engaged in such transactions do maintain such records for the reasons stated above. The concealment of such records is a necessity since these type documents are incriminatory. Experience in similar cases has established that such records are regularly concealed in a suspect's automobile, residences, office, safety deposit box and on his person, and that they take various forms. Documents commonly concealed by traffickers, include but are not limited to note in code, deposit slips, wired money transactions, savings pass books in hidden bank accounts, photographs of co-conspirators, various forms of commercial paper, personal address books, notebooks, records, receipts, ledgers, travel receipts, (rental receipts, airline tickets, bus tickets, and/or train tickets) both commercial and private, money orders and other papers relating to the ordering, transportation, sale and distribution of controlled dangerous substances or other such documents which will contain identifying data on the co-conspirators. The aforementioned items are kept in locations that are considered safe by the drug traffickers such as safety deposit boxes, residence, vehicles and on their person, where they have ready access to them. Your affiant knows that drug traffickers often have several residences decreasing the likelihood of detection by

law enforcement. Your affiant knows through training and experience and due to advancement in technology that persons involved in the illicit distribution of controlled dangerous substances maybe utilizing electronic equipment to include computers, computer modems, discs, tapes, computer software, and/or facsimile machines to facilitate the drug trade by arranging for transportation, distribution, ordering and/or purchasing illegal controlled dangerous substances. In addition, law enforcement personnel require the training manuals and other related manuals used in order to retrieve any information that may be stored on the various electronic equipment. While it is true that your affiant does not have exact knowledge of the specific documents having evidentiary value which are being concealed, the existence of such documents can be inferred from the very nature and complexity of the financial scheme as aforesaid and from the fact that persons involved in such schemes have regularly been found to utilize such records.

Your affiant, based on training and experience, knows that drug traffickers frequently attempt to hide personal assets by placing them in other person's names. This conceals the assets from detection by Law Enforcement Agencies and avoids payment of taxes on income used to purchase these assets. That even though these assets are in other person's names, the drug dealers continue to use these assets and exercise dominion and control over them.

Your affiant also knows based on training and experience that large scale drug traffickers must maintain on hand large amounts of United States Currency in order to maintain and to finance their ongoing narcotics business.

That persons involved in large scale drug trafficking conceal in their residences and businesses amounts of

currency, financial instruments, precious metals, jewelry, and other items of value and/or proceeds of drug transactions; and evidence of financial transactions relating to obtaining, transferring, secreting or spending large sums of money made from engaging in narcotics trafficking activities.

That when drug traffickers amass large proceed from the sale of drugs, the drug traffickers attempt to legitimize these profits. That to accomplish this goal, drug traffickers utilize domestic banks and their attendant services, *i.e.*, securities, cashier's checks, money drafts, letters of credit, brokerage houses, real estate, shell transactions, and business fronts, to legitimize their illegal profits.

Your affiant knows based on experience that traffickers commonly have in their possession, that is, on their person, in their residences and/or businesses, firearms, including but not limited to, handguns, pistols, revolvers, rifles, shotguns, machine guns, and other weapons. Said firearms and weapons are used by the traffickers to protect and secure their large amounts of Narcotics and United States Currency from loss to Law Enforcement Agents or other members of the criminal element that are motivated by greed.

Based on the merits of this affidavit, your affiant knows that violation of the Controlled Dangerous Substance Act of the State of Maryland are occurring at the said address of address, **1884 EAGLE COURT, SEVERN, ANNE ARUNDEL COUNTY, MARYLAND** by James Tillman, and your affiant prays a search and seizure warrant be issued for the said residence. Wherefore your affiant hereby makes application and prays that a Search Warrant be issued authorizing him, with necessary and proper assistants, to search the said premises located:

1884 EAGLE COURT, SEVERN, ANNE ARUNDEL COUNTY, MARYLAND. THE SAID PREMISE IS DESCRIBED AS A TOWN HOUSE, CONSTRUCTED OF RED BRICK. THE SAID PREMISE HAS A WHITE STORM DOOR. THE SHUTTERS AROUND THE WINDOWS ARE RED IN COLOR. THE NUMBERS "1884" ARE BLACK IN COLOR AND APPEAR ABOVE THE ENTRANCE OF THE RESIDENCE.

for the property specified, to wit:

1) To seize any books, records, and documents relating to the acquisition, possession or distribution of said controlled dangerous substances.

2) To open any and all safes, locked boxes and receptacles and to seize all contents which pertain to the said illegal activities.

3) Indicia of occupancy, residency, rental, and/or ownership of the premises described herein, including, but not limited to, utility and telephone bills, canceled envelopes, rental, purchase or lease agreements, and keys; and

4) To search any and all persons found to be involved in said illegal activities.

5) To view all non-commercially produced video tapes.

6) To seize electronic equipment, such as computers, facsimile machines, digital papers and cellular telephones, answering machines, and related manuals used to generate, record and/or store the information described in this exhibit. Additionally, computer software, tapes and discs, audio tapes, and the contents therein, containing the information generated by the aforementioned electronic equipment and used in the aforementioned violations relating to the transportation, distribution, ordering anid purchasing of controlled dangerous substances, especially drugs;

7) To seize all appointment books, diaries, calendars, financial records, work schedules, computer records, or other documents that detail the aforementioned violations or individuals involved in the aforementioned violations.

8) To seize all financial documents that are related to the placement of monies used in the aforementioned violations;

9) To seize photographs, including still photos, negatives, video tapes, films, undeveloped film and the contents therein, slides, in particular photographs of co-conspirators, of assets and/or controlled dangerous substances;

10) United States Currency, precious metals, jewelry, and financial instruments, including stocks and bonds.

11) To seize any and all firearms.

and if the property be found there to seize it and to seize any property found liable to seizure under the laws of this State. I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct.

/s/ Det Black #1996
DETECTIVE BLACK #1996,
PRINCE GEORGE'S COUNTY POLICE DEPARTMENT

Reviewed by Supervisor /s/ Sgt D.Stiner 1240

Reviewed for legal sufficiency by /s/ ASA David Whitacre via fax

Subscribed and sworn to before me this 10 day of March, 2000.

/s/ [Illegible]

JUDGE